

STATE OF TENNESSEE

SOCIAL SERVICES BLOCK GRANT PROGRAM

FISCAL YEAR 2009 STATE PLAN

JULY 1, 2008 - JUNE 30, 2009



PHIL BREDESEN

Governor

DEPARTMENT OF HUMAN SERVICES

Designated State Agency

VIRGINIA T. LODGE

Commissioner

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SOCIAL SERVICES BLOCK GRANT
SSBG ELIGIBILITY POLICY AND PROCEDURES

ELIGIBILITY FOR SSBG

Introduction

The provision of social services for adults by this Department either directly or through purchase of services is financed partially with federal funds under the Social Service Block Grant, hereafter referred to as SSBG.

In accordance with all applicable Federal and/or State regulations the Tennessee Department of Human Services has developed the following eligibility policies for the delivery of social services for adults. These policies apply to all services provided directly by this Department or through the Department's grant contract agencies. These policies make it mandatory that each recipient of service be determined eligible for services by meeting the prescribed eligibility criteria. No funds may be expended in the provision of social services to any individual for whom there has not been a determination of eligibility for services based on his/her financial status and /or need for service.

Each individual wishing to apply must have the opportunity to make application for services without delay. The application may be filed by the individual requesting the service or by an authorized representative of the individual needing service.

Although neither residency nor citizenship affects eligibility for services, the family or individual must be living in Tennessee to receive services. If the family or individual has a Tennessee address but lives across the line in another state, eligibility cannot be established.

PART I

DESCRIPTION OF SERVICES, CRITERIA FOR ESTABLISHING NEED, AND SPECIAL ELIGIBILITY INSTRUCTIONS

DAY CARE SERVICES FOR ADULTS

Definition - A structured program of personal care and training offered for less than 24 hours a day in an approved community-based facility. These services, preventive and/or protective in nature, shall be provided for adults who are not capable of full independent living as a result of physical disability, developmental disability, emotional impairment, and/or frailty resulting from advanced age.

Components:

Work activities

Nutritional services

Life enrichment activities

Continuing education

Counseling for the client and/or family

Speech and hearing therapy

Health monitoring

Transportation to and from the program

Physical and psychological examination if needed for entry and continuance in the program

Method of Determining Eligibility - Verification

There are two eligibility criteria for services:

Need for service

Financial status

Procedure for Establishing Need for Service

The need for day care for adults is determined when an individual, 17 years or older, requires supervision for less than 24-hours a day in a structured protective environment due to physical or mental impairment as evidenced by:

- Severe and/or chronic disability attributable to mental and/or physical handicap which is likely to continue indefinitely and has resulted in functional limitations in social and daily living skills (disabled individuals who may benefit from aged day care programs).
- Individuals who are 60 years or older and must reside with a caretaker (relative or non-relative) due to functional limitations in daily living skills and who require supervision for part of the day to allow the caretaker to be away from the home (day care for the aged)
- Persons 60 years of age or older who are experiencing depression, confusion, withdrawal, chronic illness, deteriorating mobility and/or deteriorating social and life skills such as personal hygiene, meal preparation, and money management and are as a result, in risk of institutionalization (day care for the aged.)

For reimbursement purposes, the adult is considered a full-time participant when the plan of attendance meets his/her need for care. An agency may want to divide a full-time space between two individuals and this is allowable. The hours of need for these individuals must be compatible, i.e.; one adult may need care on Monday, Wednesday and Friday whereas another adult needs care on Tuesday and Thursday.

Special Eligibility Requirements for Services to Persons in Nursing Homes

When an agency has a client who enters a nursing home the agency may provide no services except transitional service as needed. Sometimes agency staff may be required to visit their client in the nursing home for a brief period until a smooth transition of casework responsibilities to nursing home staff can be made. **This period must not exceed 30 days.**

Special Eligibility Requirements for Payment of Day Care Fees

All income eligible individuals with income are required to pay a weekly fee. The procedures for determining the fee and The Monthly Income and Weekly Fee Tables may be found in Part VII, Procedures for Assessment and Collection of Adult Day Care Fees, on pages 36-39.

Goals Relating to Service:

- II. Achieving or maintaining self-sufficiency
- III. Preventing or remedying neglect or abuse
- IV. Preventing or reducing institutional placements through community based care
- V. Securing institutional placement when appropriate

FOSTER CARE SERVICES FOR ADULTS

Definition - Twenty-four hour care in foster family homes may be provided for adult protective service clients. The objective of the care is to provide a family living arrangement for aged or disabled adults who do not require institutional or nursing care, whose own families are unable to care for them, and who are unable to live independently.

Components:

Recruitment, study, and approval of family homes

Placement and supervision of the placement activities, including counseling with the resident and sponsors

Referral and case management services which may be necessary for the development and implementation of a service plan

Transportation as needed to assist in securing other needed services

Method of determining Eligibility:

Services will only be provided to Adult Protective Services Clients.

Procedure for Establishing Need for Services

The need for adult foster care can be established for an individual who is physically, emotionally or mentally disabled, or aged and is unable to live alone or with his/her own family, but does not require the services of a residential facility. These adults should be able to benefit from family living. They should be able to function in such a setting with minimal supervision and/or help in maintaining themselves. Without this care, they would be abused, neglected or exploited.

Purchased Services

Some components of foster care may be purchased through a grant contract. When foster care components are purchased, the Department's adult services staff authorizes the specific service components, which are needed.

Goal Relating to the Service

III. Preventing or remedying neglect or abuse

HOMEMAKER SERVICES FOR ADULTS

Definition: Supportive services provided by qualified para-professional employed as homemakers, supervised by professional staff, directed to providing protective supervision and care for adults in their own home.

Components:

- Protective supervision for adult.
- Case management by professional staff (mandatory)
- Teaching of homemaker skills
- Provision of household management
- Essential shopping
- Household tasks
- Provision of personal care
- Provision of temporary care to help the adult return to or remain in his/her own home.

Method of Determining Eligibility- Declaration

Eligibility Criteria for Services

- Need for Service
- Financial Status

Procedure for Establishing the Need for Service

The need for homemaker services for adults can be determined in the following situations:

- An adult or couple, living alone, is unable because of temporary illness or infirmity to manage some of the household tasks.
- An adult in a hospital, nursing or boarding house can return to his/her home if some of the household tasks are done for him/her.
- An ill or infirm adult is not receiving proper care or is living in hazardous circumstances.
- An abused, neglected or exploited adult needs to be taught basic skills in caring for himself/herself and or his/her home.

Special Eligibility Requirements for Services to Persons in Nursing Homes

When an adult enters a nursing home, the homemaker service must be terminated. However, as needed the agency can provide transitional services to assist the adult in his/her adjustment to services from the nursing home staff. These transitional services must not exceed 30 days.

Special Eligibility Requirements for Services to Persons in Institutions

An institutionalized adult is eligible for homemaker services to enable him/her to move out of the institution into the community. Services should be provided only after the institution has a written plan which shows the adult will be moving back into the community within 30 calendar days.

Goals Relating To Services

- II. Achieving or maintaining self-sufficiency
- III. Preventing or remedying neglect or abuse or exploitation
- IV. Preventing or reducing institutional placements through community based care

PROTECTIVE SERVICES FOR ADULTS

Definition- Protective Services for adults 18 years of age or older, who are unable to protect their own interests due to mental or physical dysfunction, or advanced age and have no available, willing, and responsibly able person to assist them; and who are abused, neglected, or exploited or threatened with abuse neglect, or exploitation.

Components:

- Receiving reports
- Conducting investigations of reports
- Identifying and assessing the individual or his/her appropriate representative
- Counseling with the individual or his/her appropriate representative
- Assisting in locating or maintaining adequate food, shelter and clothing
- Assisting in obtaining required medical care or mental health services
- Emergency shelter is care provided in a home or facility available to receive adults on a 24-hour basis when emergencies arise requiring removal from the home or normal residence. Food, shelter and clothing are basic components.
- Assistance with transportation necessary in the provision of these service components.
- Respite care to provide short-term relief for caregivers.

Method of Determining Eligibility- Without Regard to Income

Eligibility Criteria for services: Need for Services

Procedure for Establishing Need for Service

An adult's need for protective services is based entirely on the adult's need for protection. The adult in need of protective services must meet the following conditions:

- Be 18 years of age or older
- Have no available, willing, and responsible person to assist him/her and be able to protect his/her own interest due to:
- Advanced age
- Mental Dysfunction, or

- Physical dysfunction
- Is abused, neglected or exploited or threatened with abuse, neglect or exploitation.

Purchased Services

This service is provided “Without Regard to Income” for protective service eligible individuals. When components of adult protective services are purchased through a grant contract, they will be authorized by the Department’s Adult Protective Services staff. The one exception is when the Adult Protective Services staff authorizes individuals to receive homemaker services through a contract agency and then closes the case for direct services. The contract agency providing Homemaker Service may continue to provide homemaker services “Without Regard to Income”. Policy regarding case closure and the authorization process is addressed in Part III, page 22 of this policy.

Note: Effective July 1, 2006 SSBG Homemaker contractors are restricted from accepting non-Protective Service Referrals. Income Maintenance and Income Eligible clients that were eligible and receiving agency services as of June 30, 2006 may continue to receive services for as long as they need services.

Goal Relating to Service

III. Preventing or remedying neglect or abuse.

PART II

II. PROCEDURES FOR DETERMINING ELIGIBILITY

Eligibility for SSBG services is based on the need for service and financial status. The criteria for establishing need for each service is addressed in Part I of this chapter under the description of services. The need for service must also be related to one of the five National Goals as described in Part I. To establish financial status, income must be considered and the individual requesting services must be in the following category of financial eligibility:

- Services to Adult Protective Service referrals.

A. CATEGORIES OF FINANCIAL ELIGIBILITY

The categories of financial eligibility are as follows:

1. INCOME MAINTENANCE STATUS

Recipients of SSI (Includes State Supplemental Payments)

The SSI recipient is eligible for service based on the receipt of a Supplemental Security Income grant the Social Security Administration or a State Supplemental payment, if need is established.

The adult's age and disability status must be considered in determining income eligibility.

2. AGE

When the individual needing service is 60 years of age or older, age verification is required only when there is a question whether the individual is 60 years of age. If the individual's age is in question and there is no apparent disability, age must be verified.

Diagnosis of Disability

A diagnosis of disability is required for any individual who is considered disabled and who needs service. The diagnosis must be made by someone who is licensed to make such a diagnosis. Licensed persons such as the following may be used to make the diagnosis of disability: Physician, psychologist, psychiatrist, and mental health clinician staff.

Information concerning the diagnosis must be recorded fully on the application Form HS-0412 (4221). The documentation must include the name of the person making the diagnosis; the nature of the disability, including whether it is permanent or subject to change; and the date the verification was received by the worker.

If the diagnosis of permanent disability is obtained, it is not necessary to secure any further verification. This does not eliminate the need for regular eligibility re-determinations. Should the individual have a permanent disability, each re-determination of eligibility should note where in the case record the verification can be found. When the disability is not a permanent one, the disability must be considered at each re-determination. The re-determination must include an updated verification of the disability status.

Determining Family Size

In order to determine the appropriate income standard, the size of the family unit for the adult needing the service must be determined. A family unit is defined as follows:

Family means one or more adults and children, if any, related by blood or law and residing in the same household.

Where adults, other than spouses, reside together, each shall be considered a separate family by the State. The only persons who may be considered responsible for a child are parents or other persons with legal custody. A minor child is one under 18 years of age.

Common Law Relationships

Tennessee law does not recognize common law relationships. Therefore, two individuals living in this type of relationship must be considered as two separate family units.

Adults Residing in the Same Residence

Spouses residing together are considered as one family unit. When adults, other than spouses reside together, each will be counted as a separate family unit. These adults may either be related or not related.

Non-Legally Responsible Relative Providing Care for a Child

When unrelated individuals provide care for a child and eligibility is being determined for those individuals, the child is not included in the family unit.

B. ELIGIBILITY OF QUALIFIED ALIENS FOR SERVICES

Public Law 104-193, the Personal Responsibility and Work Act of 1996, and Section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P. L. 104-108, for purposes of SSBG eligibility defines a qualified alien as:

1. An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act
2. An alien who is granted asylum under section 208 of such Act.
3. A refugee who is admitted to the United States under section 207 of such act.
4. An alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year.
5. An alien whose deportation is being withheld under Section 243 (h) of such Act
6. An alien who is granted conditional entry pursuant to section 203 of such Act
7. An alien who, or an alien whose child, has been battered or subjected to extreme cruelty under the terms and conditions set forth in section 431(c).

C. SOURCES OF GROSS MONTHLY INCOME TO BE CONSIDERED

In establishing eligibility for SSBG there are 13 potential sources of gross income that must be considered. Numbers 1, 2, and 3 are considered earned income.

1. Money, Wages or Salary

Wages or salary include the total money earnings received from work performed as an employee: wages, salary, Armed Forces pay, military housing allowances, commissions, tips, piece rate payments and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues and similar purposes.

2. Net Income from Non-Farm Self Employment

Net income includes gross receipts minus expenses from one's own business, professional enterprise or partnership. Gross receipts include the value of all goods and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes) and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as a part of net income.

3. Net Income from Farm Self Employment

Net income includes gross receipts minus operating expenses from the operation of a farm by a person on his own account as an owner, renter or sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others and incidental receipts from the sale of wood, sand, gravel and similar items.

Operating expenses include the cost of feed, fertilizer, seed and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not State and Federal income taxes) and similar expenses. The value of fuel, food or other farm products used for family living is not included as part of net income.

4. Social Security

Social Security includes Social Security pensions and survivor's benefits and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance and railroad retirement insurance checks from the United States Government. The full amount of Social Security and Railroad Retirement benefits prior to deductions for medical insurance must be considered. The Medicare premium paid by Social Security is included.

The Medicare deduction is taken out of the Social Security check if the recipient is 65 years of age or older or if the recipient has been receiving SSA disability assistance for more than two years. SSI recipients do not pay the Medicare deduction-it is paid by the State. If a client indicates he/she has taken the option of not having the deduction withheld from his/her check, a signed self-declaration to this affect may be accepted.

5. Dividends, Interest (on Savings Bonds), Income from Estates or Trusts, Net Rental Income or Royalties

Dividends, etc., include dividends from stockholdings or membership in associations, interest on savings or bonds, periodic receipts from estates or trust funds, net income from rental receipts from boarders or lodgers and net royalties.

6. SSI or State Supplemental Payments

This means payments from Supplemental Security Income (SSI) or a State Supplemental Payment.

7. Pensions and Annuities

This includes pensions or retirement benefits paid to a retired person or his/her survivors by a former employer or by a union either directly or through an insurance company; periodic receipts for annuities or insurance.

8. Unemployment Compensation

Unemployment Compensation is compensation received from government unemployment insurance agencies or private companies during periods of unemployment and strike benefits from union funds.

9. Worker's Compensation

This is compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the person. Exception: the first \$20 of each monthly payment of Black Lung benefits is not considered income.

10. Alimony

Alimony is payment made to a spouse or ex-spouse for his/her support at the time of legal separation or divorce.

11. Child Support

Child support consists of regular payments made by one or both parents for the child's support. It may be court ordered or voluntary payments. Child support cannot be deducted from the parent's gross income when he/she is supporting a child who resides out of the home.

12. Veteran's Pension

Veterans pensions are payments made periodically by the Veteran's Administration to disabled former members of the Armed Forces or to survivors of deceased veterans for educational and on the job training as well as "refunds" paid to ex-servicemen as GI Insurance Premiums.

13. Training Stipends

Generally, money received to cover living expenses while an individual is in school or in a training program is considered income. This includes college or university scholarships, grants, fellowships, and assistantships, which are paid directly to the student.

Exceptions: Stipends paid to the school or training facility are not considered income available to the individual. Any Federal student assistance under revised Section 479B of Title IV of the Higher Education Act (HEA) or under the Bureau of Indian Affairs (BIA) Student Assistance Programs is excluded from consideration as income. This includes: Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, or Tennessee Student Assistance Awards.

D. DETERMINING GROSS MONTHLY INCOME

The gross income from the current or previous month will be considered the gross monthly income. If the individual's employment status or rate of pay changes, at least the previous thirteen (13) weeks income must be considered. When income is received in other than regular, monthly amounts, the following methods will be used to convert to monthly income.

- Hourly Income: Determine the hourly wage and multiply this amount by the number of hours worked per the individual's usual work day to determine gross daily pay. Multiply the daily pay by the number of days worked in the individual's workweek to obtain weekly pay.
- Weekly Income: Multiply the weekly income by $4 \frac{1}{3}$ (or 4.33) to determine monthly income.
- Income paid every two weeks: Multiply the amount received each two weeks by $2 \frac{1}{6}$ or (2.6) to determine monthly income.
- Income received twice per month: Add the amounts received to obtain monthly income.
- Annual Income: Divide total amount of annual income by 12 to determine monthly income.
- Non-regular or seasonal income: In these instances, income fluctuates from month to month. It may be necessary to average income over several months, but at least the previous three months' income should be considered. This policy is applicable when a person works overtime on a regular basis.)
- Income from Farm and Non-farm self-employment: This type of income is usually received on an annual basis. It is first necessary to determine income and expenses in accordance with B and C under Sources of Gross Monthly Income to be considered. Then convert the results to a monthly figure. It may be necessary to estimate initially until the client has some actual income data. If the family or individual has a deficit income because expenses are greater than income from farm or non-farm self-employment, the negative figure rather than zero must be included with other income.

- Regular Income obtained during a portion of the year: Some individuals have regular employment during certain months of the year. This income is to be treated as annual income. Example: school teachers, school cafeteria and maintenance personnel, etc.

PART III

METHODS OF DETERMINING ELIGIBILITY

The three methods of determining eligibility are Declaration, Verification, and Without Regard to Income.

A. DECLARATION METHOD

The declaration method is used to determine eligibility for all services, except Adult Day Care. When an applicant has declared his/her Income Maintenance or Income Eligible status, service can be initiated.

If the applicant has earned income or has declared zero income, verification of this income (earned or zero) must be obtained within 15 calendar days of the initial application. Should verification not be obtained by the end of this period, the case must be closed. The client is eligible only for the 15-calendar day period. A closure notice, Form 670, is required. Although the closure allows 10 days for appeals purposes, no reimbursement is allowed for services provided beyond the 15-day period.

For eligibility redeterminations, any earned income or zero income must be verified prior to the expiration of the eligibility period (either 6 months or 12 months).

Earned Income is defined as:

- Money, wages, or salary
- Net income from non-farm self-employment
- Net income from farm self-employment

When the client's disability is used to establish need for service; a diagnosis of the disability must be obtained. This verification must be given by a person who is licensed to make the diagnosis. Normally the applicant will be responsible for obtaining his/her disability diagnosis. The diagnosis must be filed in the case record.

If there is a question over whether the applicant is 60 years of age, age must be verified. The age verification should be maintained in the case record.

Should either the Department or the agency receive information which conflicts with the client's declaration, the information in question must be verified to determine his/her actual eligibility status. If it is determined that the client is ineligible, the case must be closed or eligibility denied. The procedure for verifying earned income and zero income are addressed under the Verification Method.

B. VERIFICATION METHOD

The verification method is used for adult day care services. It is necessary to verify and document the verification of both (1) Income Maintenance or Income Eligible status and (2) the need for service prior to service initiation. Information concerning the verification must be included on form HS-0412 (4221). When the client's status is Income Maintenance, verification of other income is not required.

1. Procedure for Verification of Income Maintenance Status

Income Maintenance status must be verified and documented at application and at each redetermination of eligibility. If special action (change of circumstances) is taken, verification must be secured. Verification must include the information, the source of the information, and the date it was obtained.

SSI Recipient

Recipient status may be verified through the Department's County office files such as the SSI or Bendex (Social Security) Clearing House Report, by observing the SSI check, or through the local office of the Social Security Administration. A signed Release of Information should accompany the request to the Social Security Administration.

2. Procedures for Verification of Income Eligible Status

In order to determine income status, gross income must be verified. If the need for service is based on the client's disability, then disability becomes part of income eligibility and must be verified. Verification of income and disability may be obtained either in writing or verbally.

Income

Income, including fixed income or zero income, must be documented at the time of verification. If special action is taken, verification must be secured.

Information concerning the verification of gross income must be recorded fully on the Form HS-0412 (4221). It will include the name and title of the person who gave the verification, the date the verification was made and the amount and source of the income. If the title of the person providing verification does not indicate how the person providing verification does indicate how the person is in a position to know, an explanation must be given.

Some Acceptable Sources of Verification of Income

- Paycheck stubs (no more than 30 days old, determine the period covered by the check and whether it is representative of usual pay).
- Copies of court orders or legal documents
- Records of county or circuit courts
- Award letters, approval of benefits notices, etc.
- Written, signed and dated statements of employers
- Written, signed and dated statements from a person who regularly cashes the client's check
- W-2 Forms or income tax forms
- Bank or financial institution records
- Records maintained by self-employers
- Verbal statements of employers
- Statements of relatives and friends (acceptable only when other sources of verification are not available)

3. Verification of Zero Income

It is necessary to obtain at least one confirmation of a family or an individual having zero income. Some sources to verify zero income are as follows: past employers, other agencies working with the family or individual, Food Stamps or Family Assistance records, persons in a position to know the circumstances etc. Statements of relatives and friends must be used only when other sources of verification are not available.

4. Procedures for Verification of Need

The need for service must be documented at application and at each redetermination of eligibility. If special action (change of circumstances) is to be taken, verification must be secured at that time. The verification must include name and title of the person providing the verification and the date the verification was made.

C. **WITHOUT REGARD TO INCOME METHOD**

The “Without Regard to Income” method is used when the client is eligible for the SSBG Purchased Service based on need only. Income is not a consideration with this method. The Department’s staff authorizes purchased services or components of service for active Adult Protective Services-APS cases in the WRI-“without regard to income” category. The contract agency (provider agency) will be involved in determining eligibility in the Without Regard to Income category only when the Department has closed its case for adult protective services and has authorized the agency to continue providing homemaker services. The authorization procedure is addressed in Part V of this chapter under “Service Authorization by the Department of Human Services” on page 31.

PART IV

RELATING NEED TO SSBG GOAL

Since service provision is to enable the adult to reach a goal, the need for service must be related to one of the five national goals. The goal established for the provision of a particular service is listed as applicable to that service in the Tennessee Social Services Block Grant Pre-expenditure report, which serves as the federal State Plan. The Goals are as follows:

Goal 1: Achieving or maintaining economic self-support, including the reduction or prevention of dependency.

This goal directs client and worker activity toward the prevention, reduction or elimination of the client’s need for financial assistance. The goal is appropriate for the client who has the potential to replace financial assistance with wages or salary from employment.

The goal is achieved when a client’s need for financial assistance is reduced or eliminated; and the client satisfies his/her financial need through wages or salary.

The goal is maintained when the client’s demonstrated capacity to satisfy financial need through wages or salary is assured by the provision of social services. This assurance prevents the occurrence or reoccurrence of a need for financial assistance.

Goal 2: Achieving or maintaining self-sufficiency including the reduction or prevention of dependency.

The goal directs client and worker activity toward the prevention or reduction of the client's dependence on professional social services. The self-sufficiency goal is appropriate for the client who has the potential to increase personal competence and social resourcefulness thereby improving the quality of his/her life.

The goal is achieved when a client's need for social services is reduced or eliminated, and the client satisfies his/her personal and social needs through independent functioning.

The goal is maintained when the client's achieved level of functioning and quality of life is assured through the provision of social services. This assurance prevents the occurrence or reoccurrence of greater dependence on professional social services.

Goal 3: Preventing or remedying neglect, abuse or exploitation of adults unable to protect their own interest or preserving, rehabilitating or reuniting families.

This goal is achieved when neglect, abuse or exploitation is prevented or remedied.

Goal 4: Preventing or reducing inappropriate institutional care by providing community based care, home based care, or other forms of less intensive care.

This goal is achieved when a client's need for institutional care is prevented or an institution-based client is enabled to move into community-based care, home-based care or some other form of less intensive care.

Goal 5: Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

This goal is achieved when the client is admitted to appropriate institution-based care yet may require social services to achieve maximum benefit from the institutional program.

PART V

APPLICATION/AUTHORIZATION PROCESS

A. Processing Eligibility Determinations by Provider Agencies

The process which agencies use to determine eligibility is as follows:

1. Application Process

Form HS-0421 (4221) is used as the application for all services. The application may be filed by the individual requesting services or by his/her authorized representative. A statement of need must be documented on the form. The person signing the application certifies the information it contains is correct.

The applicant must be informed about the eligibility requirements, his/her rights and obligations in accepting services, and his/her right to appeal.

A signed Release of Information must be obtained if a source of verification requires this prior to releasing information. The Release of Information must be signed by the person for whom verifications are being made. Although a minor may sign an application on an adult's behalf, this minor cannot consent to verifications of the adult's income.

A period of eligibility (either six or 12 months) is established after the need and income status have been determined. The eligibility period will be six months unless there are extenuating circumstances or the client is a recipient of fixed income such as Social Security, SSI benefits or pensions (even though there may be other income). The eligibility period for recipients of fixed income may be 12 months. The eligibility period begins the date the caseworker signs and dates the form. At this point, Adult Day Care providers need to assess the fee amount for Income Eligible clients with incomes at or above \$561 per month. Procedures to be followed may be found in Part V11, Adult Day Care Fees.

All applications for services must be processed within thirty (30) calendar days from the date of the application.

When eligibility is not determined within the prescribed standard of promptness, the record must reflect clearly the cause for delay in making disposition of the application. The applicant or his/her representative's failure to provide necessary information for the eligibility determination is cause for rejecting the application.

Services will usually be initiated upon completion of the eligibility determination process unless the application is rejected. The requested service must be initiated within fifteen (15) calendar days. If service is not begun within fifteen (15) days, there must be an explanation of the delay documented in the service record.

2. Notice to the Applicant

- Approval:
 - Notification of eligibility status, either verbal or written, is required except in Without Regard to Income cases. The agency determining eligibility is responsible for these notices.
 - From HS-0421 (4221) – Application for SSBG services is used to notify client of eligibility status. Notification of verbal approval may be indicated on this form.
- Denial
 - When an applicant for SSBG services has been found ineligible to receive service, a written notice of denial must be provided. The written notice of denial should be given or sent to the applicant no later than fifteen (15) calendar days of the date of the decision. When the agency plans to provide the service from another funding source, no notice is required.
 - Form 670 – Social Service Closure/Denial Notice is used for notification to the client for closure/denial of services.

3. Registration of Cases

For Income Eligible/Income Maintenance cases, a copy of Form HS-0421 (4221) must be forwarded to the Department for case registration and reporting purposes within fifteen (15) calendar days of completing the eligibility determination. The State office staff will enter cases on the Department's database system known as the Adult and Community Services System (ACSS). Agencies should address this correspondence to: Sheila Moss, Adult Protective Services, Department of Human Services, 400 Deaderick Street, 14th Floor, Nashville, TN 37248. (Telephone and email information is as follows: 615-313-4787 or Sheila.K.Moss@state.tn.us)

4. Redetermination of Eligibility

A new form HS-0421 (4221) must be completed for each redetermination of eligibility. It is not necessary to submit a copy of the redetermination to the Department. See Change of Circumstances below for the exception. Except for recipients of Social Security benefits, SSI, or pensions, a redetermination of eligibility is due three (3) months from the date of the initial application and every six months thereafter. The redetermination for recipients of Social Security, SSI, or pensions is due twelve (12) months from the date of application and every twelve (12) months thereafter.

The redetermination of eligibility must be completed at least ten (10) days prior to the end of the current eligibility period. This allows time for the ten (10) day closure notice to be sent to the client who is found to be ineligible. The eligibility period begins the date the caseworker signs and dates the form. The worker must notify the client of his/her eligibility status when eligibility is re-determined.

5. Change of Circumstances

A redetermination of eligibility is required within thirty (30) calendar days after receipt of information which may affect eligibility status. This may involve a change in income, recipient status, family size, or need. Exception: When the Federal Government makes an across the board increase in Social Security and SSI benefits, these changes may be considered at the time the individual's case is due for redetermination – not at the time of increase. Changes in circumstances, such as adding or deleting a client or case closure, must be submitted to the Department on a Form 904—Change in Circumstances. This information is needed so that changes can be made in the Department's information system. It is not necessary to submit changes of address or telephone numbers.

6. Case Closure

A case must be closed if it is determined that a client is no longer eligible or is not being served. A written ten (10) calendar day notice of closure to the client is required prior to termination of service. SSBG funds are available during this ten (10) day period providing the effective date of case closure is no later than the last day of the current period of eligibility. The client may wish to appeal the closure/denial. If the client appeals within the period of the ten (10) day closure notice, service may continue pending the hearing decision. The procedures for appeals are addressed in Part VI, Appeals and Reviews.

Closure Notices

- Form 670: Social Service Closure/Denial
Notification to client by provider agency of closure
- Form 904: Change of Circumstances
Notification to the Department by provider agency of closure
- Form 905: Notification of Termination
Notification by the Department to provider agency that
service by the Department is terminating

If service will be continued under another funding source, no notice to the client is required. The Department must be notified of the change by Form 904.

If the agency experiences a reduction in SSBG funding or this funding is terminated in its entirety, all affected clients must be given written notice. As much advance notice as possible must be given. Since SSBG funds are not available to serve these clients, they have no right to appeal the termination of their services.

B. Service Authorization by the Department

Form HS-0041 (567). Purchase of Service Authorization and Request for Services is used by the Department's staff to authorize an agency to provide services to protective services eligible adults. The authorization must be submitted to the agency at the point the purchased service is requested. This authorization shall remain in effect until the Department terminates the service, and no re-authorization is required. When the agency receives the 567 form and begins the service authorized by DHS, the agency must send a copy of the 567 to the State office for approving a purchased service case on ACSS.

Although the Department's staff is not required to re-authorize services, they must advise the agency in writing of any change in the client's circumstances which affects the purchased service.

When the Department closes its adult protective services case, the counselor must notify the agency. The notification must be written (Form 905 is used for this purpose), and it should advise the agency on whether the purchased service is to continue or be terminated. If the purchased services are to be continued, the agency must assume responsibility for all eligibility determinations.

The effective date of authorization, i.e., the first date a client can be served by the agency is the same date the counselor completes the HS-0041 (567) unless the agency already has processed an application and begun serving the client.

In these instances, the agency would have initiated service based on its own eligibility determination. Upon receipt of the Department's authorization the client will be served under that authorization, and the agency will not be required to redetermine eligibility during the period the Department authorizes services.

Special procedures are applicable to authorizing homemaker services for adult protective services clients.

C. Special Authorization Procedures for Protective Service Homemaker for Adults

When the Department's local staff makes a referral for an adult to receive homemaker service, the counselor must give basic information about the client's circumstances and establish the activities the homemaker will perform. In addition to this information, the agency must be given an authorization.

In Adult Protective Service homemaker cases, the Department closes its case at the point the assessment (Form 2861) has been completed; and it is determined the client's only protective need is for homemaker services. Prior to case closure, previously assessed active adult protective service cases must be reassessed using Form 2861. The assessment identifies areas of risk and the needed intervention.

If the case warrants protective services but all identified needs are met with homemaker services, then the adult protective service case may be closed. If the agency can serve the client, the homemaker service will continue to be provided in the Without Regard to Income category. Adult protective services staff must make certain the homemaker agency can initiate services promptly before closing their case. While SSBG contract agencies are required to accept only DHS referrals, there could be instances when the agency does not have a vacant slot. In such cases, every effort should be made to not place Protective Service clients on a waiting list for services. When possible, service times of other active clients should be adjusted to accommodate the new referral.

It is the DHS counselor's responsibility to notify the agency in writing that homemaker services are to continue, and that the client should continue to be classified in the Without Regard to Income category. The service may continue in this category as long as the need exists. The agency is responsible for establishing the client's ongoing need for homemaker services at six months intervals after the Department closes its case.

PART VI

APPEALS AND FAIR HEARINGS

I. Clients Right to Appeal

The applicant or recipient has the right to appeal any decision that is made by Department or agency staff regarding services. Circumstances that most frequently lead to complaints concerning services involve failure to act promptly in providing or arranging service; the denial or exclusion of the client from service; a determination that the applicant or recipient or his/her family must participate in the service program; or discriminatory practices.

The agency must establish written policies and procedures which allow a client the right to appeal decisions related to service provision. The right to appeal and the agency's policies and procedures must be explained to the client at the time of application. Explanation of the appeals procedure must be given at any point the client is dissatisfied with the service provision or with a decision related to eligibility.

Exception: When a SSBG agency has to reduce or terminate a client's service due to funding reductions or elimination, the client has no right to appeal this action. The client must be given timely written notice of the reduction or elimination of services.

Whenever a client is dissatisfied with either the service provided by the agency or with the eligibility decision, the client first must have an opportunity to appeal his dissatisfaction through the agency's internal procedures. If the client is not satisfied with the decision rendered by the agency's internal appeal process, he/she has the right to file an appeal with the Department of Human Services. The client must be assisted with filing the appeal.

PART VII

PROCEDURES FOR ASSESSMENT AND COLLECTION OF ADULT DAY CARE FEES

A. ASSESSMENT OF ADULT DAY CARE FEES

All Income Eligible individuals with a monthly income at or above \$613 are required to pay a weekly fee as shown in Table II: Adult Day Care Fee Schedule. An Income Eligible individual with income below \$613 is not required to pay a fee. This fee schedule is applicable for SSBG Adult Day Care only.

Fees are not charged for the Without Regard to Income or Income Maintenance categories. If an individual has been determined to have zero income, the case must be set up for special action within thirty (30) days to determine continued eligibility without a fee being paid.

Weekly day care fees are based on full-time care, but some adults are in day care for what is considered to be part-time for fee setting purposes (less than 24 hours a week for adults). When the adult regularly receives part-time day care, one half of the fee is to be charged. The client must pay the full weekly fee when he/she is absent due to illness or vacations. Fees must be prorated when the agency is closed for holidays, In-Service training, etc.

After an individual has been determined Income Eligible based upon Table I, the appropriate fee can be determined by referring to the monthly income according to family size in Table II. If more than one member of the family unit is in day care, then each member must pay the appropriate fee based on the monthly income for the family unit.

B. COLLECTION OF ADULT DAY CARE FEES

Day care fees are to be collected each week unless another payment plan can be agreed upon by both the client and agency. When the fee payment is other than weekly, the case record must document the payment schedule. (Example: in advance, every two weeks, monthly or the first and the fifteenth of the month). Fees paid monthly or twice monthly will need to reflect the days of center operation, i.e., weekly fees may need to be divided by five to determine daily payments.

If the agency determines that paying the fee places a hardship on the SSBG client, the agency may arrange for a sponsor to pay the client's fee or the agency may pay the client's fee with any unrestricted funding source available to the agency.

When the fee is not paid according to the agreed upon schedule, the agency must document non-payment and attempt to collect. A written notice must be sent/given the client at the end of the calendar month and a written plan for payment signed by the client must be established within seven working days after the notification is sent/ given. If the plan is not established within this time frame or the plan is not followed, the case must be closed and a final notice given. Eligibility for service cannot be reestablished until the back fees are paid or the client has been out of the program for six months.

TABLE I: INCOME TABLE

SSBG ADULT DAY CARE AND HOMEMAKER SERVICES
125% of Federal Poverty Guidelines¹

Family Size	Maximum Monthly Income	Maximum Annual Income
1	\$1,083.33	\$13,000
2	\$1,458.33	\$17,500
3	\$1,833.33	\$22,000
4	\$2,208.33	\$26,500
5	\$2,583.33	\$31,000
6	\$2,958.33	\$35,500
7	\$3,333.33	\$40,000
8	\$3,708.33	\$44,500

For family units with more than 8 members, add \$4,500.00 annually for each member, or \$375.00 per month

¹ Federal Register / Vol. 73, No. 15 / Wednesday, January 23, 2008

TABLE II
Adult Day Care Fees²
2008-2009

Family Size –One \$ 1,083

Monthly Income Range	Weekly Fee Per Individual
\$649 - \$ 757	\$10
\$758 - \$ 865	\$12
\$866 - \$ 973	\$14
\$974 - \$ 1,083	\$16

Family Size –Two \$1, 458

Monthly Income Range	Weekly Fee Per Individual
\$874 - \$1,019	\$10
\$1,020 - \$1,165	\$12
\$1,166 - \$ 1,311	\$14
\$1,312 - \$ 1,458	\$16

Family Size- Three \$ 1,833

Monthly Income Range	Weekly Fee Per Individual
\$1,099 - \$ 1,282	\$10
\$1,283 - \$1,465	\$12
\$1,466 - \$1,648	\$14
\$1,649 - \$1,833	\$16

Family Size –Four \$2,208

Monthly Income Range	Weekly Fee Per Individual
\$1,324 - \$1,544	\$10
\$1,545 - \$1,765	\$12
\$1,766 - \$1,986	\$14
\$1,987- \$2,208	\$16

Family Size –Five \$2,583

Monthly Income Range	Weekly Fee Per Individual
\$1,549 - \$1,807	\$10
\$1,808 - \$2,065	\$12
\$2,066 - \$2,323	\$14
\$2,324 - \$2,583	\$16

² Based on 125% of Federal Poverty Income Guidelines

PART VIII

SSBG FORMS AND USE

- 1) **567** HS-0041 (12-93) **Tennessee Department of Human Services
Purchase of Services-Authorization for Services**

The DHS Representative (usually APS worker or supervisor) uses this form to authorize an Adult Protective Services client for a purchased service Without Regard to Income. It is sent to the agency to initiate the purchased service -Adult Day Care Services, or Homemaker Services. It must include the client's date of birth, and Social Security number if available so that registration can be completed.

- 2) **670** HS-0053 (8-90) **Social Services Denial/Closure Notice**

The provider agency denying the SSBG application for service or closing the case for SSBG services will use this form to notify the client of the action. This serves as an official notification of closure or denial.

- 3) **675** HS-0054 (8-90) **SSBG – Eligibility Notice for Day Care Services**

Used by the provider agency to notify the client of their eligibility for Adult Day Services and their responsibility to pay weekly fee. Client is notified that their case will be closed for non-payment, but that they will have the right to appeal.

- 4) **904** HS-0880 (3/91) **Change in Circumstances Reported by Provider
Agency**

Used by the Provider Agency to report to the State Office a change in the case so the change can be made on the ACSS system. Add or delete a client or case closed.

- 5) **905** HS-0878 (11-90) **Tennessee Department of Human Services
Termination of Services**

This form is used by the DHS representative to notify the Provider Agency that the client is no longer eligible to receive the Purchased Service WRI and to close the case. It also informs the Provider Agency that DHS is closing the Adult Protective Services case for Direct Service and the agency should continue services WRI as needed.

- 6) **925** HS-0079 (8-90) **Notice of Termination of Day Care Services Due to
Overdue Fees**

This form is used by the Provider Agency to notify clients that adult day care services will be terminated due to non-payment of overdue fees.

7) **4221** HS-0412 (8/92) **Tennessee Department of Human Services**
Application for SSBG Services

This form is used by the Provider Agency for the SSBG service to determine and re-determine eligibility for a client for the SSBG service when the agency is determining eligibility. It must include the client's date of birth, and Social Security number if available.

**PERFORMANCE STANDARDS
FOR
SOCIAL SERVICE BLOCK GRANT
ADULT DAY CARE SERVICES**

I. DAY CARE SERVICES FOR ADULTS

A. Service Definition of Adult Day Care

A structured program of personal care and training offered for less than 24 hours a day in an approved community-based facility, (Section C., DHS Licensing). These services, preventive and/or protective in nature, shall be provided for APS adults who are not capable of full independent living as a result of physical disability, developmental disability, emotional impairment, and/or frailty resulting from advanced age. This service may include the following components:

- Work activities
- Nutritional services
- Life enrichment activities
- Continuing education
- Counseling for the client and/or family
- Speech and hearing therapy
- Health monitoring
- Examination if needed for entry and continuance in the program

B. Description of Components

a. Work Activities

- (a) A specific task, duty, function or assignment often being part of some larger operation, characterized by action, and designed to stimulate learning by first-hand experience resulting in practical outcomes.
- (b) A situation whereby an actual competitive work situation is developed to expose mentally retarded adults to a work environment.
- (c) Time spent developing mental and physical capacity in following direction: concentrating attention on one skill hoping to eventually progress to the point where the client can function in a work situation to earn money, constructively use energy, and potentially develop into a more fully functional person.

b. Nutritional Services

The provision of nutritional counseling and the purchase and/or preparation of meals and snacks intended for consumption at the center.

c. Life Enrichment Activities

Planned activities that enhance cultural, social, and physical well-being such as arts, crafts, field trips, exercise, and recreational activities as appropriate to the individual.

d. Continuing Education

The exploration of clients needs, interests, and abilities; problem identification and resolution; and provision of emotional support and guidance.

e. Speech and Hearing Therapy

The application of techniques or procedures designed to improve the clients' speech and/or hearing impairment.

f. Health Monitoring

The provision of activities directed toward improving or maintaining the clients well-being limited to the following:

- (a) Noting changes in the client's behavior or physical condition.
- (b) Encouraging and/or observing the proper use of medication.
- (c) Encouraging and arranging for appropriate contacts with health professionals.
- (d) Communication with health professionals by agency staff.

g. Transportation

Conveyance of client from one location to another.

h. Physical and Psychological Examinations

C. Licensure

The Department of Human Services is responsible for licensing adult day care programs. See Appendix A for the current Adult Day Care Services standards (Revised February, 2000). Agencies may contact their local DHS office for more information on the licensure process. Current licenses must be displayed in a prominent place within the agency.

II. GOALS FOR ADULT DAY CARE SERVICES

Each Title XX service must be directed to achieving one or more of the five national goals defined for the Social Services Program. Adult Day Care for the Aged must be directed toward achieving at least one of the following goals:

Goal 1 – Achieving economic self-support to prevent, reduce, or eliminate dependency;

Goal 2 – Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

Goal 3 – Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

Goal 4 – Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

Goal 5 – Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

III. PURPOSE OF ADULT DAY CARE SERVICES

The social service is designed to help persons who are experiencing difficulties with the aging process and who are at risk of being institutionalized as a result of impairments which prohibit their full independent living. Some of the individuals in this age group have experienced crises in their lives which have led or will lead to substantial deterioration of their physical, mental, social, and/or economic well-being. Protective action for part of the day may be needed to prevent or lessen any further degeneration which would ultimately lead to institutionalization. For others, the changes that occur with this age group are slower and less visible. These individuals have not yet experienced crises requiring immediate intervention; for these, the signs of distress and deterioration are forming and preventive action is needed. Adult Day Care services are not intended or appropriate to substitute for the services of skilled nursing care, nor to duplicate the functions of a senior citizens center, adult social club, or sheltered workshop. Individuals who need only recreational, social, or leisure time activities and do not require structured program of personal care and training are not eligible for this service. Likewise, individuals who present a significant threat to themselves or others, or whose intellectual, emotional or behavioral level prevent them from benefiting from the program, would not be appropriate for this service.

IV. SERVICE DELIVERY ORGANIZATION

Adult Day Care services may be offered by a variety of organizations either public or private that are adequately staffed with qualified personnel who are capable of delivering the service.

V. SERVICE DELIVERY SETTING

The program must be located in a community-based facility which has on file a statement of annual approval by local and/or state fire and health departments and has been licensed by DHS in accordance with Chapter 1240-7-10 of the Tennessee Code Annotated.

VI. ENVIRONMENTAL AND SAFETY CONSIDERATIONS

- a. Program activities must be located on the ground level floor or accessible by elevators or wheelchairs ramps.
- b. Each restroom must provide at least one toilet that accommodate wheelchairs and also provide handrails.
- d. The heating system must be capable of maintaining a minimum room temperature of no less than 70 degrees.
- e. The lighting in the program activity rooms must be adequate for the client population served.
- f. Access to outdoor areas should be handicap accessible.
- g. Comfortable rest areas must be available at all times.
- h. All programs must have one staff person, currently qualified in Red Cross First Aid and CPR, readily available to the program participants. First Aid kits must be located on each program vehicle and in the center. It strongly recommended that program participants be oriented to this plan.
- i. Agencies must comply with all State and Federal regulations regarding services to persons with handicapping conditions.

VII. SERVICE DELIVERY PROCESS

A. Eligibility Determination

a. Need for the Service

The need for Adult Day Care services is determined when an individual, 60 years of age or more and is not capable of full independent living, requires supervision for less than 24 hours per day in a structured, preventive and/or protective environment due to physical or mental limitations as evidenced by depression, confusion, withdrawal and/or deteriorating social, life and safety skills and, as a result, is at risk of institutionalization. Adult Day Care services may also be appropriate for some individuals, under 60 years of age, who are exhibiting problematic behavior associated with the geriatric population when documented by a professional licensed to make a determination, such as a: physician, psychologist, or psychiatrist.

Depression is indicated by prolonged feelings of sadness, hopelessness, dejection, isolation, or loneliness. Confusion is suggested by a lack of orientation to time, place or person, impaired decision-making ability, or diminished comprehension. Withdrawal is manifested by physical or social inactivity, reluctance to interact, social or emotional detachment, or pathological retreat from objective reality. Social, life, and safety skills include interpersonal and communication relationships, personal hygiene, money management, meal preparation, housekeeping skills, following physicians' instructions, the ability to ambulate independently and skills associated with physical manipulation.

Except in protective service cases situations, the client must express an interest in participating in the Adult Day Care program. Individuals who need social, recreational, or leisure time activities and do not require a structured program of personal care and training are not eligible for this service. Individuals who are incontinent, present a significant threat to themselves or others, or whose intellectual level or whose emotional and/or behavioral manifestations, in the judgment of professional staff, prevent them from benefiting from the program would not be appropriate for this service.

b. Financial Eligibility

The financial eligibility of the categories served by the Social Services Program is determined as follows:

- a. Recipients of SSI are automatically eligible for service;
- b. Individuals in need of the service because of protective service reasons are eligible without regard to their financial circumstances; and
- c. Individuals whose gross income is within the income standards defined by the Department of Human Services are eligible for service if they need it.

B. Intake

Prior to admission to the program the agency must prepare an intake study, determine eligibility for the service, and discuss with the client and appropriate family members or significant others the purpose and nature of the program (including service activities and components, hours and days of operation, and agency handling of special weather situations). The intake study, completed by professional staff and based upon at least one home visit, must include the clients current situation, including the family and interpersonal relationships, the clients home situation, physical and mental condition, presenting problems and an assessment of the clients need and appropriateness for this service, as well as a summary of any special medical requirements such as a special diet. This intake study must also document sufficiently that Adult Day Care services are required and that the client cannot be appropriately served in a Senior Citizen Center or other less intensive group setting.

C. Social Assessment

An accurate social assessment is critical to a well-planned Adult Day Care program. This assessment is to be comprised of the information contained in the intake study described in Section B with additional information describing the clients social, life, and safety skill functioning. In making the assessment of social, life and safety skills, the agency must administer or secure the current results of an objective functional assessment scale. To insure adequate agency flexibility, these standards do not prescribe any particular scale but such scales as the Physical Self-Maintenance Scale (P.S.M.S.) or the Instrument Activities of Daily Living Scale (I.A.D.L.) would be acceptable.

The agency must document the social assessment in the client's case record within thirty (30) days of admission into the program.

The social assessment must be supplemented by recent medical information (within the past six months) including a diagnosis of physical disorders, medications, and dietary and physical limitations. The agency must initiate their efforts to secure the medical information within thirty days (30) of admission.

Based upon the assessment, a social diagnosis is to be stated. It is to consist of the current problem and likely precipitating and maintaining factors that have an effect on this problem. This diagnostic statement does not require the use of diagnostic nomenclature.

When the service exceeds six months or when there is a significant change in the client's circumstances, a reassessment must be completed. The reassessment must document the clients continued need for service; update and note changes in family and interpersonal relationships; his/her home situation; physical and mental condition; and social, life, and safety skills functioning. The agency must administer or secure the current results of an objective functional assessment scale, as described, at least every six months. The reassessment must include an evaluation of the service including: (1) an assessment of whether the service plan has been implemented to date; (2) the progress made on accomplishing the cited goals/objectives for the agency and the client. There is no requirement that medical information be secured at each reassessment but rather updated as needed. As with the initial assessment, a social diagnosis is to be made based upon the information contained in the assessment. Reassessments must also be completed for APS/ WRI clients.

D. Service Plan

A service plan consisting of one or more explicitly stated goals/objectives (short-term goals) defined with or in behalf of the primary client must be included in the case record. The objectives (short-term goals) must focus on the individual client's need for service such as enhanced social, life, and safety skill functioning, the alleviation of depression, confusion, etc. The service plan should clearly detail the manner in which programmatic activity will be used to achieve these objectives (short-term goals). Good service planning is critical to quality Adult Day Care programs. When the duration of the service exceeds six months, a new service plan must be developed and included in the case record.

E. Weekly Schedule

A schedule of anticipated weekly activities shall be prepared by agency professional staff and maintained for monitoring purposes. This schedule must not be planned in a haphazard way just to occupy time or solely to entertain the clients. The activities should be the tools by which individual client objectives as stated in the service plan are met. The schedule shall include a detailed listing of planned service activities for each day of the week based upon individual client service plans, needs, and progress summaries. The agency should seek the involvement of clients in developing the activities to be included in this schedule.

VIII. Service Delivery

The delivery of this service involves the goal directed interaction for a portion of the day between the primary client and program staff, other program participants, family/caretaker and significant others in the community. This service is provided in a facility-based, therapeutically structured environment. The intensity, frequency and type of interaction should be determined by the service plan. These interactions, supervisory in nature, will be carefully planned with the involvement of all professional staff to provide personal care and training. The basic elements of an Adult Day Care program include the following but may be supplemented by other programmatic activity when indicated by client needs:

- a. facilitating the development or maintenance of social, daily living, and/or safety skills;
- b. improving or maintaining cognitive functioning;
- c. alleviating isolation;
- d. encouraging the clients communication;
- e. providing physical or mental stimulation and expanding social and cultural contacts; and
- f. scheduling periods of rest and relaxation.

All program staff should understand their role in the service delivery process and coordinate their efforts to integrate the individual service plan into the client's daily program experience. In addition, Adult Day Care service delivery includes:

- A. Family involvement – during the intake process the agency staff must assess the level of existing natural and substitute family relationships. Staff should identify family members willing and able to participate in service planning.

Prior to the development of the service plan, agency professional staff should schedule a family conference to solicit their involvement in the service planning. As a general rule, the service plan should seek to re-establish or enhance family relationships. Additional family conferences should be conducted prior to service re-assessment or as needed. When termination is anticipated the family should participate in the planning process, if possible.

- B. Nutritional Services – the program must include the serving of a nutritionally balanced noon meal. The noon meal should be supplemented by a morning or afternoon nutritious snack. The meal and snack must be intended for consumption at the center; however, under limited circumstances individuals may carry unconsumed food home for later consumption. These circumstances must be limited to situations when a program participant does not eat his/her entire meal at the center and wishes to carry the remaining food home or when the center has unconsumed meals which it can give to clients to take home. Extreme care must be exercised that food susceptible to easy spoilage is not allowed to leave the center in this fashion. The center, however, must prepare only enough meals to serve the program participants anticipated to be in attendance.

Agency professional staff must provide on-going monitoring on the nutritional needs of the client population with special emphasis being placed upon clients with special dietary limitations. Professional staff should also provide for nutritional counseling as needed.

- C. Health Monitoring – to properly serve this client population it is mandatory that an Adult Day Care program provide on-going monitoring of the clients physical and mental condition. To fulfill this requirement the agency **staff** must familiarize themselves with the client's health status and continuously monitor the client's behavior and condition for significant changes. The agency must designate professional staff to become familiar with the participant's medication requirements and monitor the daily use of medication in the center. Agency staff should also encourage appropriate contacts with health professionals such as keeping medical appointments and getting prescriptions filled. The designated staff should communicate with and arrange for appointments with health professionals as needed, and make explicit arrangements with physicians and hospitals in case of an accident or medical emergency. Authorization for emergency medical care must be maintained on file for clients who have been declared incompetent.

- D. Continuing Education – if the individual service plan indicates a need for literacy, GED, Braille, or sign language training, the agency should provide the service or make appropriate referral. The agency may also provide other academic subject matter of interest to the client group. Education in such areas as the human aging process and death and dying should be offered.

The agency must provide education and training as indicated by individual client service plans in the following areas:

- Effective use of food stamps
- Nutritious meal preparation
- Effective food shopping
- Money management
- Availability of community resources
- Consumer education
- Home maintenance skills
- Health maintenance skills

- E. Counseling – counseling services must be available to each program participant. The counseling activities should involve appropriate family members whenever possible and indicated in the service plan. The counselor should be responsible for planning the termination process with the client, family, and other program participants. In the event of the death of a program participant, the counselor should assume primary responsibility for working through the grief process with the other program participants.
- F. Life Enrichment – the agency must provide a series of activities designed to provide mental and physical stimulation, expand social contacts, enrich cultural experiences, and enhance the quality of the client's life when relevant to an individual's service plan.
- G. Transportation – client access to the program is vital to service delivery. The agency must provide or arrange for transportation to and from the program when needed by the client. It is strongly recommended that agencies meet the special transportation needs of handicapped clients.

IX. Documentation

Documentation of the service delivery process, as defined, provides the kind of information necessary to evaluate the efficiency and effectiveness of the service. The case record should contain a clear picture of the interaction between the client and other program staff and participants. Each individual case record must reflect the client's involvement in the programmatic activities described in the weekly schedule and the client's resulting progress toward the objectives outlined in the service plan. As it is recognized that the same service activity may be used in different ways with various clients, the case record must indicate the relationship between the client's activities and their objectives.

The agency direct-care staff must make at least weekly notations of client's programmatic responses to the service activities such as behavioral changes and the level of client interaction and progress toward stated goals.

At least once per month, staff must enter into the case record a summary of client progress. This entry, based upon the above mentioned notations, should summarize how the service activity was used to deliver the service plan and the client's response and progress.

In addition, significant counseling contacts must be recorded in narrative form in the case record. The case record should also reflect special events such as accidents, injuries, runaway, extreme disruptive behavior, or significant medical events. The case record should include a discharge plan and documentation of any follow-up activity when a case is closed.

The individual client case record must, therefore, include at a minimum the following:

- An intake study
- Eligibility determination
- Social assessment (an objective functional assessment supplemented by current medical information)
- Service plan
- Monthly summaries of client's progress
- Significant counseling contacts
- Authorization for emergency medical care (when needed)
- Signed release of information form
- Signed grievance procedure form
- Re-determination of eligibility
- Reassessment (including objective functional assessment)
- Any changes in diagnosis
- New service plan

- Discharge plan
- Follow-up documentation

The agency must also maintain a central attendance log for monitoring purposes. This log must include the names of eligibility category of all enrolled Title XX clients. The agency must record in the log the days and hours that each client attends the program as well as the total daily attendance.

X. Program Evaluation

The agency must have a plan for annual evaluation of service effectiveness. This process must include each service component provided by the Adult Day Care Program.

XI. Discharge

When a client is to be discharged from the program, a formal discharge plan must be in the client's record. The discharge plan must include a brief summary of the client's progress in the program, the reason for the discharge, and post discharge expectations. The plan must be discussed with the client and relevant others.

XII. Follow-Up

Follow-up services include post-discharge contacts with clients, caretakers and/or service providers for the purpose of confirming the delivery of services specified in the discharge plan, evaluating services, determining additional service needs, and developing improved procedures and policies for program operations. Follow-up may occur only within 30 days of discharge and clients receiving follow-up services only are not considered to be in the program.

XIII. Duration of Services

The service may remain on-going as long as the service plan indicates a continued need. In case of extended absences longer than 30 calendar days, the client will be automatically terminated from the program.

XIV. Attendance

Actual client attendance and participation in the program is critical to the delivery of Adult Day Care services. If the client is to receive the maximum benefit of the program, then five full client days per week attendance is optimal. A client day is defined as the number of hours the individual client would normally be present at the center if staying the maximum time allowed by agency hours and/or transportation procedures.

Due to variations in client needs and limitations some clients may wish to attend less than every day. The minimum level of program attendance is two (2) full client days or an equivalent number of hours spread over more than two (2) days. There are time-limited circumstances when it is appropriate to provide this service less than two client days per week. These circumstances are limited to:

- a. A carefully planned and documented effort to engage a client into the program. This situation may occur when an isolated client is reluctant to become involved in a group setting or when an individual is undergoing some sort of transitional period. The agency can plan for the client to attend less than two client days per week for no more than 30 days.
- b. When a physician orders the client to attend on a restricted basis due to physical limitations. The agency may continue restricted service as long as the physician directs. This must, however, be documented in the case record.
- c. A planned termination process clearly documented in the discharge plan and limited to 30 days.

XV. Unit of Service

A unit of service is defined as a full client day of care.

XVI. Hours and Days of Operation

The hours and days of operation must be set to meet the needs of the clients and their families. The center must be open with a planned program for a minimum of six (6) hours each day exclusive of transportation. Adult Day Care programs must provide care and activities at least five days per week, except that a facility may be closed for the following reasons: (a) designated legal holidays; (b) State Office of the Department of Human Services approved in-service training days (not to exceed four days per year); and (c) hazardous weather conditions when the county office of the Department of Human Services is closed. In other cases of hazardous weather, the facility must be opened for service; however, transportation may or may not be provided.

XVII. Group Size

Group size may vary according to the activity in which the clients are engaged. However, a group must not exceed the involvement of 20 clients in order to maintain optimal group cohesion. A program may include more than one group and groups may be combined for appropriate activities such as lunch, field trips, parties and speakers. Utilization of small groups (5 to 7 clients) is strongly encouraged to enhance individual attention.

XVIII. Staffing

The staffing pattern of the program must be dependent upon the admission criteria and the particular needs of the clients who are to be served.

A. Ratio

For overall program planning purposes, the agency shall provide, at least, one direct care staff person for every eight (8) clients. Direct care staff persons are those individuals whose regular job responsibilities put them in face-to-face contact with clients. Agencies may count non-funded and volunteer direct care staff in computing the ration so long as the agency can demonstrate the staff's continued responsibility for clients involved in the Department funded program.

While volunteers may be used to maintain the staff/client ratio, one responsible paid staff person must be present at all times. The use of volunteers must be limited to positions for which they meet the minimum qualifications as stated below.

B. Qualifications

Every program is required to have at least one professional staff person. Professional staff persons must be responsible for program direction, planning, case management, counseling, health monitoring, family involvement, and discharge planning.

- Program Director

- (a) Minimum Qualifications

Graduation from an accredited four-year college or university including or supplemented by twenty-seven quarter hours in behavioral sciences (i.e., social work, psychology, sociology) and two years of professional work experience in a social services, health and/or related field.

- (b) Desirable Qualifications

Graduation from an accredited four-year college or university, a Masters degree in one of the behavioral sciences (i.e., social work, psychology or sociology), and two years professional work experience in a geriatric setting.

- Professional Staff

Example of job titles in this category may include: activity specialist, social worker, supervisor, and case worker.

- (a) Minimum Qualifications

Graduation from an accredited four-year college or university including or supplemented by twenty-seven quarter hours in behavioral sciences (i.e., social work, psychology or sociology or graduation from an accredited school of nursing and licensed to practice in Tennessee as a registered, or a bachelor's degree in home economics or recreational therapy may be considered an acceptable substitute for persons functioning as an activity specialist only).

- Para-Professional Staff

Para-Professional staff must be trained and supervised by professional staff for the activities in which they engage and which may include assisting professional staff in their responsibilities. Examples of job classifications in this category may include: day care aides, geriatric aides, and van drivers.

(a) Minimum Qualifications

Ability to follow oral and written instructions and keep simple records. Van drivers must have a valid license and endorsement for the vehicle passenger size as required by Tennessee law.

(b) Desirable Qualifications

High School graduation or GED. Completion of a geriatric training program and experience working with elderly to prepare the employee for the tasks and responsibilities of this service.

C. Evaluation

Administrative, supervisory, and delivery-level staff must be evaluated by their immediate supervisor at least annually. The executive of a private agency must be evaluated by the board of directors at least every two years (preferably every year). New staff members should be evaluated at the end of six months and annually thereafter unless the individual's performance is unsatisfactory. In such cases, the individual should be placed on probation and evaluated in accordance with the agency's personnel practices plan at intervals of three to six months.

XIX. In-Service Training and Staff Development

Staff members of agencies providing Adult Day Care services require on-going training and education to perform their duties adequately. Because of the comprehensive nature of this service, it is necessary for all new employees to receive orientation to the program and their specific job duties. All staff members should participate in staff development opportunities for at least eight (8) hours annually. These opportunities may include consultation, workshops, or conferences as well as in-service education provided by the agency and should be documented in the employee's file.

XX. Governing Authority

A. Private Agency

The governing authority for private agencies should be broadly representative of the community, including the socio-economic group being served. Consumers of the service or their representatives should be included in the board membership. The governing authority should reflect the needs and interests of the agency.

The primary function of the governing authority is to establish policies and to adopt rules, regulations, and by-laws consistent with the agency's program. In addition, the authority should establish management functions incidental to good fiscal operation. Such functions include fiscal policies and procedures governing personnel and travel.

It is desirable for governing authorities to have meetings at least monthly for reviewing and discussing fiscal policies and operations as well as program progress. Minutes should reflect, in detail, pertinent discussions at these meetings and be maintained on file.

B. Public Agency

Public agencies are governed by the laws under which they are established.

XXI. Confidentiality

All information pertaining to the delivery of Adult Day Care services is confidential with access restricted to authorized staff or to other organizations upon written permission of the client prior to the release of information. This authorization must be filed in the case record.

Table 4-5. Physical Self-maintenance Scale (PSMS): Activities of Daily Living

Numbers 1 through 5 in each category represent worsening states of function. Choose the number that best describes the resident's functional status. Scores in all 6 categories should then be totaled. The higher the final score, the greater the degree of impairment.

A. Toileting	<ol style="list-style-type: none"> 1. Cares for self at toilet completely, no incontinence. 2. Needs to be reminded or needs help in cleaning self, or has rare (weekly at most) accidents. 3. Soiling or wetting while asleep more than once a week. 4. Soiling or wetting while awake more than once a week. 5. No control of bowels or bladder.
B. Feeding	<ol style="list-style-type: none"> 1. Eats without assistance. 2. Eats with minor assistance at mealtimes and/or with special preparation of food, or needs help in cleaning up after meals. 3. Feeds self with moderate assistance and is untidy. 4. Requires extensive assistance for all meals. 5. Does not feed self at all and resists efforts of others to feed him/her.
C. Dressing	<ol style="list-style-type: none"> 1. Dresses, undresses, and selects clothes from own wardrobe. 2. Dresses and undresses self with minor assistance. 3. Needs moderate assistance in dressing or selection of clothes. 4. Needs major assistance in dressing but cooperates with efforts of others to help. 5. Completely unable to dress self and resists efforts of others to help.
D. Grooming (neatness, hair, nails, hands, face, clothing)	<ol style="list-style-type: none"> 1. Always neatly dressed, well groomed, without assistance. 2. Grooms self adequately with occasional minor assistance (eg. ,shaving) 3. Needs moderate and regular assistance or supervision in grooming 4. Needs total grooming care, but can remain well groomed after help from others. 5. Actively negates all efforts of others to maintain grooming.
E. Physical Ambulation	<ol style="list-style-type: none"> 1. Goes about grounds or city. 2. Ambulates within residence or about one block distance. 3. Ambulates with assistance of (check one) a. <input type="checkbox"/> another person; b. <input type="checkbox"/> railing; c. <input type="checkbox"/> cane; d. <input type="checkbox"/> walker; e. <input type="checkbox"/> wheelchair – gets in and out without help; f. <input type="checkbox"/> wheelchair – needs help in getting in and out. 4. Sits unsupported in chair or wheelchair; but cannot propel self without help. 5. Bedridden more than half the time.
F. Bathing	<ol style="list-style-type: none"> 1. Bathes self (tub, shower, sponge bath) without help. 2. Bathes self with help in getting in and out of tub. 3. Washes face and hands only, but cannot bathe rest of body. 4. Does not wash self but is cooperative with those who bathe him/her. 5. Does not try to wash self, and resists efforts to keep him/her clean.

Adapted with permission from Lawton MP, Brody EM. Assessment of older people: self-maintaining and instrumental activities of daily living. *Gerontologist*. 1969;9:179-186.

February, 2000 (Revised) 1

RULES OF THE TENNESSEE DEPARTMENT OF HUMAN SERVICES

DIVISION OF COMMUNITY AND FIELD SERVICES

CHAPTER 1240-7-10

ADULT DAY CARE SERVICES STANDARDS

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1240-7-10-.01 PURPOSE OF LICENSURE.

(1) The primary purposes of licensure are the protection of adults who are participants in adult day care centers and the provision of day services designed to maintain or restore each adult's optimal capacity for self-care through medical or social services.

(2) The following standards seek to maintain adequate health, safety and supervision of adults while in adult day care services to the end that they may achieve these goals.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq.

Administrative History: Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.02 LEGAL BASIS FOR LICENSURE.

Tennessee law requires that adult day care centers as defined in TCA §§71-2-401 et seq. be licensed. If any center subject to these requirements currently is licensed by another agency of state government, after consultation with that agency, the Commissioner may determine that the provisions of the other licensing body adequately regulate the center's program and the Commissioner may determine that licensing of the entity is unnecessary.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.03 DEFINITIONS.

For purposes of this Chapter, the following definitions are applicable:

- (1) "Adult" shall mean an individual who is eighteen (18) years of age or older.
- (2) "Adult day care center" shall mean a facility which provides adult day care services.
- (3) "Adult day care services" shall mean services provided to ten (10) or more adult recipients, for more than three (3) hours per day but less than twenty-four (24) hours per day, by a provider of such services who is not related to such adult, pursuant to an individualized plan of care designed to maintain or restore each adult's optimal capacity for self-care through medical or social services.
- (4) "Affidavit" shall mean the notarized statement filed by the facility certifying that such facility is in existence and in operation as of January 1, 1997.
- (5) "Annual license" shall mean an annual certificate issued by the Department to an adult day care center, authorizing the licensee to provide adult day care services in accordance with the provision of the license, the law, and the requirements of the Department.
- (6) "Assisted-care living facility" shall mean a building, establishment, complex or distinct part thereof which is defined as provided by *TCA §68-11-201* and licensed by the board for licensing health care facilities pursuant to *TCA §68-11-209* or as further defined by Chapter 1200-8-25.
- (7) "Biennial license" shall mean, with the Commissioner's approval, a certificate issued by the Department to an adult day care center at the end of the annual license period, authorizing the licensee to provide adult day care services for a twenty-four (24) month period. If a biennial license is granted, it may be limited to an annual license at the next renewal period.
- (8) "Commissioner" shall mean the Commissioner of the Tennessee Department of Human Services.
- (9) "Denial" shall mean the decision of the Department not to issue a provisional or regular annual or biennial license.
- (10) "Department" shall mean the Tennessee Department of Human Services and its representatives.
- (11) "Fee" shall mean a processing fee for license applications assessed by the Department and submitted by the agency with the application in accordance with the following schedule:
 - (a) Adult Day Care Center--Less than 50 \$15.00
 - (b) Adult Day Care Center--50-100 \$20.00
 - (c) Adult Day Care Center--More than 100 \$25.00
 - (d) If a biennial license is issued, the fees established by subparagraphs (a)-(c) shall be doubled.

(e) Any adult day care center which is operated by a public, nonprofit or local municipality operating under a grant from the Department and which pays an administrative fee as part of the monitoring requirements of such grant shall be exempt from the licensure fee.

(12) "Full-time equivalency ("FTE") methodology" shall mean the use of one or more available staff on a part-time basis to meet required staff: participant ratios at the adult day care center so that the total number of hours devoted to providing care and supervision of the participants by the various staff equals the staff time necessary to meet the staff: participant ratios which would be provided if one, or more, staff were utilized on a full-time basis to provide appropriate care and supervision to the participants.

(13) "Governing board" shall mean the group of persons having final authority and responsibility for conduct of the adult day care center serving ten (10) or more persons in those centers which are operated by a municipality, county or non-profit corporation. It shall have at least four (4) members. It may include members who may be recipients of the service of the adult day care center, relatives of such recipients, or representatives of community organizations with particular interest in programs for the elderly. No member of the governing board, nor any member of the immediate family of the governing board, shall have any direct or indirect interest in any contract for supplying services to the adult day care center.

(14) "Home for the aged" means a home as defined in *TCA §68-11-201* and as licensed by the board for licensing health care facilities pursuant to *TCA §68-11-209* and Chapter 1200-8-11.

(15) "Hospital" shall mean any institution, place, building or agency as defined in *TCA §68-11-201* and as licensed by the board for licensing health care facilities pursuant to *TCA §68-11-209* and Chapter 1200-8-1.

(16) "Hospice" shall mean any institution, place or agency as defined in *TCA §68-11-201* and as licensed by the board for licensing health care facilities pursuant to *TCA §68-11-209* and Chapter 1200-8-8.

(17) "License" shall mean a certificate issued by the Commissioner authorizing the operator to provide adult day care services for a specified period of time. The term "new license" shall include any renewal of a license.

(18) "Licensee" shall mean the organization, partnership, corporation, person(s) or other entities which operate an adult day care center pursuant to a license issued by the Department.

(19) "Nursing home" shall mean an institution, place, building or agency as defined in *TCA §68-11-201* and as licensed by the board for licensing health care facilities pursuant to *TCA §68-11-209* and Chapter 1200-8-6.

(20) "Participant" shall mean the adult receiving services in the adult day care center.

(21) "Probation" shall mean the legal status of an adult day care center in which the Department has determined that there exist violations of statutory or regulatory standards concerning the operation of the center that require notice to the public of the existence of such violations and corrective action by the licensee, but which do not currently warrant suspension, denial or revocation of the center license. Failure to correct violations which caused the imposition of probation by the Department may lead to suspension, denial or revocation of the center's license.

(22) "Provisional license" shall mean a certificate issued by the Department to an adult day care center, authorizing the licensee to provide adult day care services for a maximum of one (1) year while the center demonstrates that it substantially meets the requirements for licensing, that there are no health or safety violations under the licensing requirements, and that any violations are addressed by the center in a corrective action plan which is acceptable to the Department.

(23) "Related" shall mean a person who is related to the adult day care services recipient as a legal or biological parent, a step-parent, spouse, child, grandchild of any degree, sibling, aunt, uncle, nephew or niece of any degree, or cousin to the third degree, or grandparent of any degree, or a step-grandparent of any degree.

(24) "Respite care" shall mean to offer temporary, substitute living arrangements for dependent adults in order to provide a brief period of relief or rest (usually more than twenty-four (24) hours) for family members, conservators, guardians, or other people who are their regular caretakers.

(25) "Responsible party" shall mean the relative, legal representative or other person who makes the placement of the participant with the adult day care center, to whom center staff will look for decisions regarding the participant's care and to whom information regarding the participant's care and status is reported by the center's staff. A participant who appears to the center's staff to be mentally capable of making his or her own decisions may act on his or her own behalf without having another person as responsible party.

(26) "Revocation" shall refer to action taken by the Department to terminate an adult day care center's license when the center fails to comply with licensing regulations during the term of the existing license.

(27) "Senior citizens center" shall mean a not-for-profit or municipal agency, which serves persons fifty-five (55) years of age and older. The range of activities varies from center to center, however, most senior center agencies provide recreational and social activities, hot lunch meals, a protected environment where elderly persons can congregate, community services, employment opportunities, opportunities for volunteer services, and information, referral and consultation services. If properly licensed as an adult day care center, the senior citizens center may operate an adult day care program.

(28) "Sheltered workshop" shall mean a program that provides a controlled and protected working environment and remunerative employment activities with individualized goals to help people who have disabilities progress toward normal living and productive vocational status. The objective of the program is to help participants achieve employment if the potential exists, or long-term employment within a sheltered workshop if competitive employment is not feasible.

(29) "Sitter Service" shall mean the provision of basic care and supervision of adults for some period of time during a twenty-four (24) hour period, but less than twenty-four (24) hours per day, and the offering to those adults of any support or assistance if needed, but without a specific program for maintenance or restoration of the adult's capacity for self-care.

(30) "Summary suspension order" shall mean an order issued by the Department to immediately suspend the license until action is taken by the licensee to correct the problem which imminently affects the health, safety, or welfare of the day care participants.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq., and 71-3-506(b).
Administrative History: Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.04 LICENSING PROCEDURE.

(1) All facilities which meet the definition of an adult day care center as defined in these rules shall be licensed by the Department of Human Services except as otherwise provided in 1240-7-10-.02. An adult day care center as defined in these rules which is operating without the requisite license and which is not otherwise exempted from licensing by the Commissioner as provided by this paragraph or by 1240-7-10-.02, shall be subject to closure by injunctive relief pursuant to TCA §29-3-112.

(2) All applicants for a license to operate an adult day care center shall file an application for a license on a form approved by the Department and shall submit with the application the required fee as set forth in 1240-7-10-.03(11). Any adult day care center which is operated by a public, non-profit agency or local municipality operating under a grant from the Department and which pays an administrative fee as part of the monitoring requirements of such grant shall be exempt from the licensing fee.

(3) The application for the provisional, or for an annual or biennial license, shall include the following information:

(a) Evidence satisfactory to the Department that the applicant, the person designated to manage the day to day operations of the proposed adult day care center, and its directors and officers if the applicant is a non-profit corporation, are of reputable and responsible character, and that the legal and administrative responsibility for the day to day operation of the center is clearly defined;

(b) Evidence satisfactory to the Department of the ability of the applicant to comply with the adult day care center law and these regulations;

(c) A list of the governing board, its officers and directors, if the facility is to be operated by a municipality, county or a non-profit corporation;

(d) Evidence satisfactory to the Department that no member of the governing board nor any member of the immediate family of the board members have a direct or indirect interest in any contract for supplying services to the adult day care center;

(e) Evidence that no part of the net earnings of a facility operated by a municipality, county or a non-profit corporation will benefit a private shareholder or individual;

(f) Evidence of the capability, training and experience of the director or person in charge of the proposed adult day care center as required by 1240-7-10-.10(4);

(g) Evidence of a criminal background check as required by 1240-7-10-.10(2)(a)2. of all staff or designated volunteers who are included in the staff to participant ratio. Prior to issuing a new license, the Department shall determine that each adult day care center has written documentation of a criminal background check on all employees and any volunteers who are included in the staff to participant ratio. A past conviction of crimes committed by the employees or volunteers of the adult day center involving: misuse of funds, fraud, physical abuse or assault of any degree, or any degree of homicide against any person, the illegal use or illegal possession or distribution of drugs or alcohol shall, in the discretion of the Department, be grounds for denial of a license; and

(h) Evidence of a planned program which protects the safety of the participants;

(4) When an application for any license, and when the necessary fire, safety, environmental and food service establishment approvals, have been received, the Department shall conduct an initial inspection, and any further inspections necessary to make a determination regarding the issuance of the license.

(5) Provisional License.

(a) If the application is for a facility which is not currently licensed by the Department, the Department shall only issue a provisional license. The provisional license shall be issued to the proposed adult day care center only if the Department determines that:

1. The proposed center substantially complies with the adult day care law and these regulations, including specifically those in paragraph (3);

2. No violation of the adult day care law or these regulations exists which jeopardizes the health or safety of the adults being served in the facility; and

3. The applicant has adopted a plan satisfactory to the Department for the correction of any existing violations of any regulations.

(b) The provisional license shall be valid for a maximum period of one (1) year, but may be for a shorter period as determined by the Department.

(c) The holder of a provisional license must submit an application for a regular annual license at least thirty (30) days prior to expiration of the provisional license which must be accompanied by the appropriate fee. If the provisional license was granted for a period of less than one (1) year, the Department will give the applicant credit for the

annual license fee up to the amount of fee remaining from the provisional license application.

(d) Within thirty (30) days prior to termination of the provisional license, the Department shall conduct a full and complete inspection of the adult day care center, and;

1. If the adult day care center meets all applicable requirements for licensure, a regular annual license shall be issued; or

2. If the inspection demonstrates that substantial progress is being made in meeting the regulations applicable to the operation of an adult day care center prior to the expiration of the provisional license, the Department may extend the provisional license for a period not to exceed six (6) months. No additional fee shall be charged for the extension of a provisional license.

(e) If there has not been substantial progress in meeting the regulations for the operation of the adult day care center at the time of the inspection, or, if the Department determines upon an inspection made within thirty (30) days prior to the expirations of the six (6) month extension of a provisional license that full compliance with the standards for operation of an adult day care center have not been demonstrated by the applicant, no extension of the provisional license, and no regular annual license, shall be issued.

(6) No applicant which is licensed as a health facility, community care facility or clinic may be issued a license for an adult day care center while there exists a substantial uncorrected violation of the statutes or regulations relating to such license. The applicant will be held responsible for notifying the Department of Human Services of any such existing violations of regulations governing its licensure for those other facilities. Failure to provide such notification shall be grounds for revocation of the adult day care center's license.

(7) Any license issued or renewed pursuant to these rules shall not be transferable to any other person or entity, and the sale or transfer of the adult day care facility by any means from the person or entity named as the licensee to any other person or entity shall require an application by the transferee for a provisional license and shall require the payment of the appropriate fee as set forth in 1240-7-10-.03(11). The adult day care center, the ownership or control of which has been transferred by the existing licensee, shall not continue operation until a provisional license has been granted to the transferee.

(8) Annual and biennial licenses.

(a) The regular annual license shall expire twelve (12) months from the date of issuance; however, the Commissioner may approve applications for re-licensing of a regular annual licensee as a biennial licensee. If a biennial license is granted, the Commissioner may limit the biennial license to an annual license at the next renewal period.

(b) An application for an annual or biennial license shall be accompanied by the appropriate fee as set forth in 1240-7-10-.03(11) together with evidence of the appropriate inspections required by paragraph (4), and these must be received by the Department at least thirty (30) days prior to the expiration of the existing license if the licensee is a current licensee. Except as provided in 1240-7-10-.15(6) or (7), failure to submit the renewal application with the appropriate fee in a timely manner for either an annual license or a biennial license, or for a regular annual license after a provisional license has been issued, shall result in expiration of the license. A new application for an initial license must then be made in accordance with these rules.

(9) The license shall be posted in a conspicuous place where it can be readily seen by persons entering the center.

(10) The Department shall have the right of inspection at all times, and upon proper identification may enter and inspect any licensed or suspected adult day care center at any time, with or without advance notice for the purpose of conducting its licensing responsibilities. Access shall be provided to law enforcement or adult protective services staff of the Department for interviews of staff, volunteers or participants involving the investigation of any allegations of abuse, neglect or exploitation of any adult. If refused entrance for inspection of licensed or suspected adult day care center, the Department may seek an immediate ex parte order from the chancery or circuit court of the county where the licensed or suspected adult day care center may be located upon a showing of probable cause that the facility is a licensed or suspected adult day care center and that the Department has been refused entrance to conduct an inspection. The court may direct any law enforcement officer to aid the Department in executing such order and inspection. Refusal to obey such order may be punished as contempt.

Authority: T.C.A. §§4-5-201 et seq.; 29-3-112; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.05 ADMINISTRATION.

(1) Governing Board: If an adult day care center is operated by a municipality, county, or non-profit corporation, the governing board shall have final authority and responsibility for the conduct of the adult day care center and shall conform to the requirements of 1240-7-10-.03(13).

(2) Oversight: The governing board and administration or the entity or individual applying for a license in the case of a for-profit operation are responsible for oversight of each center's operation. This oversight includes:

(a) Providing services described in the standards established by the Department.

(b) Establishing relationships with local health and social service providers for the purposes of consultation and/or referral.

(c) Ensuring adequate financing for the center's operation is maintained. Governing board minutes must show evidence of financial review and be available to the licensing staff upon request.

(d) Establishing an evaluation system which considers the needs of participants, their caregivers, and effectively identifies and resolves problems.

(3) Operating Procedures: The governing board and administration or the entity or individuals applying for a license in the case of a for-profit operation must establish written policies concerning: admissions; discharges; fees; hours of operation; personnel policies; plans for emergencies and disasters; and other policies as necessary. These policies shall be reviewed and revised in writing as necessary.

(4) Philosophy and Goals: Each center must develop in writing its philosophy and goals. A center may focus on a target population delineated by age group, type of impairment, medical handicap or other criteria, but may not discriminate against any adult persons because of age or disability.

(5) Multiple-Use Facilities: A multiple-use facility such as, but not limited to, a hospital, nursing home, home for the aged, assisted-care living facility, senior citizens center, church, or school in which an adult day care center is operated shall have a written agreement regarding the center's operation. The written agreement shall include such items as time allotted for use of the space for the adult day care center's operations, maintenance of such space, use of equipment, security, fiscal, and personnel services, and other shared services, and the multiple use facility shall comply with these regulations.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

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1240-7-10-.06 PROGRAM.

(1) Individuals who present a significant threat to themselves or others, or whose intellectual, emotional or behavioral level prevent them from benefiting from the center's plans of care are not appropriate for adult day care services.

(2) Individuals who need only leisure time activities, respite care or sitter services and who do not require a structured program of organized activities which provides personal care, self enhancement, and personal growth and development are not appropriate for adult day care services.

(3) Each facility shall provide supervision and personal care of the participants as needed.

(4) Adult day care programs located in or affiliated with a licensed nursing home, a licensed hospital, a licensed assisted care living facility, licensed home for the aged, a licensed residential hospice, a senior citizens center, church, school or a sheltered workshop may utilize the resources of the facility/agency to act as support to the adult day care program. However, adult day care services are not intended to serve as a substitute for the services of skilled nursing care, a senior citizens center or a sheltered workshop. The adult day care program, regardless of its location or affiliation, must comply with the program content requirements as described in paragraph (5).

(5) Adult Day Services Program Content.

(a) The adult day care services program shall consist of activities and therapies offered through individualized plans of care for each participating adult which set forth measurable goals or behaviorally-stated objectives.

(b) Activities and therapies shall be designed to activate, motivate, and/or retrain participants to maximize their functional capacity.

(c) Each day's activities shall include some physical exercise, rest, social interaction, learning opportunities, mental stimulation, and, if needed, personal care. These social, educational and life enrichment activities may include, but are not limited to, the following: arts, crafts, music, pet therapy, field trips, current events, history, games, puzzles, cards, physical activity, reminiscence sessions, movies, discussions about feelings, and appropriate recreational activities.

(d) Although leisure activities comprise an integral part of the adult day care program, activities which are limited to only the viewing of television or other media sources, or only to listening to the radio, records, or compact discs, or only to reading the newspaper, magazines, books, and other reading materials, do not constitute services sufficient for an adult day care program.

(e) Group and individual activities shall be provided. Participants shall be able to choose between group and individual activities during at least some part of the day. The participants shall have the choice of refusing to participate in any activity. Group size should be appropriate to the type of activity and functional capability of the participants.

(f) The program must include assistance from community referrals and resources when appropriate.

(g) An activity schedule shall be posted at all times.

(6) An adult day care center may elect to provide occasional overnight, or week-end lodging for its participants, but the provision of this type of respite service shall not be subject to regulation pursuant to this Chapter.

(7) If a center markets itself as a specific Alzheimer's program, then it is subject to *TCA Title 68, Chapter 11, Part 14* relative to the disclosure of treatment for Alzheimer's disease.

Authority: *T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. Administrative History: Original rule filed December 14, 1999; effective February 27, 2000.*

1240-7-10-.07 RECORDS.

(1) Records of the staff, any volunteers, the participants and any other records required by these regulations shall be maintained by the center for at least three (3) years, and shall be made available to the Department's staff for review for any licensing or adult protective service duties.

(2) A file shall be maintained for each participant. Each file shall contain, at a minimum, the following information regarding the participant:

- (a) Name, address, age, and other identifying information;
- (b) Primary caregiver;
- (c) Emergency contact information for a responsible party and personal physician for the participant;
- d) Behaviors of the participant impacting on his/her care and treatment;
- (e) Limitations in activities of daily living;
- (f) Physical disabilities or conditions requiring specific modes of care, including allergies and diet;
- (g) Additional information provided by the caregiver, family, responsible party or staff necessary for the provision of comprehensive individualized care;
- (h) A listing of individuals or entities authorized to transport the participant;
- (i) A copy of the durable power of attorney, if available;
- (j) A copy of any existing and currently effective conservatorship documents involving the participant;
- (k) A listing of prescription and non-prescription medication taken by the participant. This list must be updated at least every six (6) months or as medications are changed by the participant's physician;

(3) Ongoing records, reflecting the participant's plan of care, shall be updated as indicated by the participant's change in status, but shall be updated not less than every three (3) months. These records shall contain the following information regarding the adult participant:

- (a) Goals and Activities. An over-all goal, and activities supporting this goal, must be included in each participant's plan of care. The goal and activities must be clearly stated and specifically address the participant's needs. The needs in this plan of care shall include the personal, social, physical, mental, and where appropriate, educational needs of the participant. The goal, and accompanying activities, of this individualized plan of care must show how the participant's lifestyle will be either adequately maintained or improved during the participant's stay at the adult day care center.

(b) Progress. The plan of care must demonstrate how the specific activities are going to be implemented to meet the stated goal established for the participant. At the end of every three (3) month period (quarterly), a specific progress report must show how these activities have been specifically implemented and show what the specific outcome has been. If it is determined that the objectives have not been adequately met, then the plan of care, or the appropriate activities in the plan, shall be revised.

(c) Mental and Physical Conditions. The participant's mental and physical conditions must be thoroughly described upon intake into the adult day care center. The plan must include how these conditions will either be accommodated and/or enhanced by the daily activities carried out by the adult day care center. Persons with Alzheimer's disease or other dementia or disabling diseases must be provided some type of Therapy/intervention or special service which is specific to treating or assisting the affected person to better cope with the disability. Persons must be provided the necessary assistance as may be required by the Americans with Disabilities Act.

(d) Other changes or observations noted by program staff. All other changes and observations must be noted by program staff. These changes may include, for example, a change in the participant's mood, behavior, diet, medications, or other personal circumstances. Any changes in the participant's original personal plan of care and statements explaining why the plan was altered shall be noted. Any new or additional services provided to the participant by the center shall be described, and an explanation in the record shall be noted describing how and why these new or additional services are providing improved care to the participant served by the center.

(4) A record of incidents, accidents, injuries, illnesses and emergencies involving the participant shall be maintained in the participant's file and on a separate log and shall be reported to the participant's responsible party.

(5) An adult day care center located on the premises of and operated by a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged, or a licensed residential hospice may satisfy the requirements for recordkeeping in these rules by use of existing recordkeeping processes which capture the same information and which maintain the records of the participants in the adult day care program as separate, identifiable records related to the adult day care participant's activities in the adult day care center as previously described in this section.

(6) An adult day care center using the full time equivalency (FTE) methodology for meeting the staff: participant ratios required by 1240-7-10-.10 shall maintain adequate records to document the time provided by staff used to fulfill the FTE requirement.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.08 PHYSICAL PLANT.

(1) Plans. New construction, major renovations and/or additions to existing facilities must be constructed and maintained according to the standards of the Fire Prevention Division of the Tennessee Department of Commerce and Insurance and of the Division of General and Environmental Health of the Tennessee Department of Health.

(2) The center shall have space on the ground level floor or be accessible by elevator or wheelchair ramps or other assistance devices to accommodate a full range of program activities and services, which shall include, but are not limited to:

(a) Space for individual and group activities;

(b) Private office space to permit staff to work effectively;

(c) Storage space for program and operating supplies; and

(d) Space for special therapies, a rest area, and a designated area to isolate the ill which includes comfortable resting furniture that would allow participants to recline or lie down. This may be in one room or in more than one room.

(3) At least forty (40) square feet of indoor activity space per participant shall be provided. Floor space for bathrooms, storage areas, and rooms designated only for staff use shall be excluded when computing the minimum activity space. Adult day care centers located on the premises of, on the grounds of, or adjacent to, other operations such as licensed nursing homes, licensed hospitals, licensed assisted-care living facilities, licensed residential homes for the aged, or licensed residential hospices may utilize, on a staggered or shared basis, the same facilities such as dining rooms, recreation rooms, or physical therapy rooms as are used by the clients of those other operations, provided that overcrowding does not occur; and, provided further that the space in these other facilities shall not count toward the space requirements necessary for the conduct of the adult day care center.

(4) Sufficient and appropriate seating space for all participants shall be provided.

(5) Sufficient table or tray space for dining and activities shall be provided.

(6) The center shall be kept clean, safe and free from hazards and offensive odors.

(7) The following equipment must be kept on site:

(a) A first aid kit that contains at least the following: sterile bandages and adhesive band-aids, antiseptics, sterile compresses, scissors, an oral or topical thermometer and adhesive tape;

(b) Scale;

(c) Blood pressure cuff;

(d) Blanket;

(e) Wheelchair; and

(f) Locked storage space for drugs.

1. If medicine requiring refrigeration is kept in a refrigerator used for food storage, the medicine must be put in a leak proof locked container and be properly labeled.

2. Keys for these storage compartments must be inaccessible to participants.

(8) Toilet Facilities.

(a) For the first fifteen (15) participants in the adult day care center, there shall be a minimum of two (2) toilets in the adult day care center, one (1) of which shall be wheelchair accessible. For each group of ten (10) participants, or portion thereof, after fifteen (15) participants, there shall be an additional toilet. Fifty percent (50%) of the toilets in the adult day care center shall be wheelchair accessible.

(b) On the effective date of these rules, existing facilities meeting the definition of an adult day care center which have less than twenty-five (25) participants shall only be required to have one (1) wheelchair accessible toilet available to participants in the adult day care center; provided, however, the other requirements of subparagraph (a) shall apply, and provided, further, that if such adult day care center enrolls twenty-five (25) or more participants at any time after the effective date of the rules, or if the adult day care center adds additional space or if the center moves to another location, the center shall comply with all of the requirements of subparagraph (a).

(9) The heating/cooling system shall operate adequately to assure the comfort and safety of the participants.

(10) The center must have a working telephone.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.09 FOOD SERVICE.

(1) Each facility will comply with the Tennessee Department of Health's Food Service Establishment laws at TCA §§68-14-301 et seq. and implementing regulations; provided, however, an adult day care center located on the premises of or operated by a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged, or a licensed residential hospice, shall be deemed to be in compliance with this section if food service is operated in compliance with the regulations governing those designated facilities. However, if food preparation at the adult day care center is not included in the facility's annual inspection by the Tennessee Department of Health's Division of Health Care Facilities survey team, then arrangements must be made for a separate initial and annual inspection by the local health department, and a permit under the Food Service Establishment Laws and Regulation must be obtained. The adult day care center director is responsible for supplying documentation of compliance.

(2) The program shall offer one (1) or more meals if the participants do not provide their own meal.

(3) Food preparation must be conducted in a safe and sanitary manner. Effective equipment shall be provided and procedures established to maintain food at proper temperature during preparation and service. Foods shall be prepared by appropriate methods to conserve their nutritive value and enhance their flavor and appearance.

(4) Nutritional needs shall be met in accordance with the Adult Meal Pattern Requirements as recommended by the United States Department of Agriculture (USDA)'s Food and Nutrition Service Program and in accordance with each caregiver's instructions and physician's orders, if applicable.

(5) Food shall be cut, chopped or ground to meet individual participant's needs. Participants requiring help in eating shall be assisted. Adaptive self-help devices shall be provided where required in such a manner as to contribute to the participant's independence in eating.

(6) The center must post its weekly meals menu in a prominent place so that it may be seen by the participants and their responsible parties.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.10 STAFFING.

(1) Staffing Patterns.

(a) Staff of the center shall be adequate in number and skill to ensure the safety and proper supervision of the participants and to carry out the objectives of the center.

(b) Direct care staff. The direct staff ratio shall consist of at least (1) direct care staff person for every eight (8) participants. "Direct care staff" are those individuals whose regular job responsibilities place them in face-to-face contact with participants.

(c) Volunteers may be considered in determining direct care staff/participant ratios; provided that the volunteers' education and training meet the minimum requirements of staff positions being filled. Volunteers who do not meet these minimal requirements may not be counted in the required ratio, but may assist staff and other qualified volunteers. One (1) responsible paid direct care staff member must, however, be present at all times if volunteers are used. Volunteers who do not meet the minimum qualifications must always be supervised by a direct care staff member.

(d) Use of full time equivalency positions.

1. An adult day care center located on the premises of and operated by a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged, or a licensed residential hospice may use full time equivalency (FTE) ratios; provided, the total time of all staff used in the FTE methodology meets the staff: participant ratio required in subparagraph (b). Further, any adult day care center affiliated with a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged, or a licensed residential hospice using full

time equivalency ratios, must provide a written plan which is available to the Department demonstrating that the safety and emergency needs of the participants will be assured at all times if the FTE method is used.

2. FTE policy: For activities, conducted inside the facility, which involve the participation of all participants, such as the viewing of movies, watching special presentations, or observing performances, it may not be necessary to have a 1:8 staff: participant ratio, and a lesser number of staff may be used. There can, however, never be less than two (2) direct care staff present when there are nine (9) or more participants. For activities outside the facility such as field trips, staff numbers exceeding the 1:8 staff ratio may need to be utilized as necessary to provide adequate supervision for the participants due to the physical or mental status of the participants.

(e) At least one (1) direct staff member trained in cardiopulmonary resuscitation (CPR), first aid, fire safety, and the Heimlich maneuver shall be present at all times.

(2) Personnel Procedures

(a) Individual staff records shall be maintained for all employees and any volunteers included in the staff of the adult day care center. These records will include the following:

1. Name, telephone number, addresses, including all residence and work or volunteer service addresses of staff within the twelve (12) month period prior to hiring as an employee or acceptance as a volunteer or within twelve (12) months of the application for the center license for existing license applicants, and the age, race, and sex of staff or volunteers, which are necessary to aid in accurately performing the criminal record background check;

2. Evidence of criminal background check.

- (i) The criminal records background check shall be conducted for all previously undocumented employees or volunteers included in the staff: participant ratio prior to the issuance of the new license.

- (ii) The background check shall be accomplished by contacting and requesting any information regarding the criminal background of such employees or volunteers from any county sheriff's office or other local law enforcement authority of the county in the state where such employee or volunteer has resided and, in addition, if different from the county of residence, the county in which such person also worked or volunteered, for the twelve (12) month period immediately prior to the start of employment or volunteer service in the adult day care center.

- (iii) The abuse registry operated by the Tennessee Department of Health pursuant to *TCA §§68-11-1001 et seq.* shall also be contacted by the center to obtain any available information relative to the employee/volunteer's background.

- (iv) The information required by this part may be obtained through use of a public or private entity which will secure the criminal background records check from the appropriate law enforcement authorities and which will check the Tennessee Department of Health registry, in the manner described above.

(v) Evidence of the background check contained in the records shall include, at a minimum, the recording of a signed statement by the director or other staff person of the center, or the provision by an entity described in subpart (iv) of a letter to the adult day care center, verifying the names of law enforcement officials or agencies contacted and the dates such agencies and the abuse registry were contacted by the center or by the entity utilized by the center, and the results of the inquiry;

3. Documentation in the employee's or volunteer's record of efforts to obtain the criminal background check and to contact the abuse registry;

4. Educational background;

5. Employment history and references;

6. Annual performance evaluation;

7. Evidence of the absence of tuberculosis if the staff person or volunteer:

(i) is an immigrant to this country within the last twelve (12) months;

(ii) is known to be human immunodeficiency virus (HIV) positive;

(iii) has been recently exposed to tuberculosis; or

(iv) has had a cough for three (3) weeks or longer, in which case the person should be evaluated by a physician for tuberculosis prior to employment or use as a volunteer.

8. A person to be notified in case of an emergency involving the employee or volunteer.

(b) A copy of the center's personnel policies shall be available to be read by employees.

(3) Training: Staff shall be provided with orientation and on-going training/education to perform their duties. Staff development training shall be provided to all employees on a regular basis for at least eight (8) hours a year. This training may include consultation, workshops, or conferences as well as in-service education provided by the agency. Training must include education to enable staff to recognize the signs and symptoms of abuse, neglect or exploitation of an adult within the meaning of *TCA §71-6-101 et seq.*, as well as the duty to report abuse, neglect or exploitation of an adult to the Department pursuant to *TCA § 71-6-103*.

(4) Qualifications.

(a) The adult day care center director shall meet one (1) of the following requirements:

1. A minimum of a bachelor's degree in social services, health, and/or related fields and one (1) year of experience working in social services, health, and/or related fields; or a minimum of a bachelor's or master's degree (not related to social services, health, or related fields), but two (2) years work experience in social services, health and/or related fields;

2. Sixty (60) semester hours (formal college training) in social services, health, and/or related fields and two (2) years of work experience;

3. A minimum of a master's degree in health, social services, and/or related fields; or

4. A high school diploma or its equivalent, and five (5) years of full time work experience (in a managerial capacity) in social services, health and/or related fields.

5. Persons serving in the capacity of director of a facility which meets the requirements for licensing as an adult day care center on the effective date of these rules shall be deemed to meet the qualifications of this paragraph.

6. In an adult day care center located on the premises of, and operated by a sponsoring facility consisting of either a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged, or licensed residential hospice, the licensed facility's administrator may designate a professional staff member to directly and routinely supervise the adult day care center's operations if this person meets the qualifications of parts 1.-5. of this subparagraph and paragraph (4). The person appointed by the facility administrator will be considered to be the full-time director of the adult day care center by the Department, and this person will be held responsible for the center's functions and activities. For purposes of this part, it shall be deemed that the sponsoring facility administrator is the director of the licensed sponsoring facility, and that the director of the adult day care center is under the supervision of the sponsoring facility's administrator.

(b) All persons included in the staff: participant ratio shall be able to read and write English.

(c) A minimum of seventy-five percent (75%) of persons included in the staff: participant ratio shall have a high school diploma or GED.

(d) Age requirements; exceptions.

1. All employees and volunteers shall be at least eighteen (18) years of age.

2. An exception to the minimum age requirement shall be made if the person is a student under eighteen (18) years of age, and enrollment in a Vocational Education Program, Job Training or other health career development program which is included in the curriculum of an accredited high school is verified, and these students may be employed, or serve as volunteers, but only on a part time or temporary basis. These students may be counted in the participant/staff ratio if they otherwise meet the minimum qualifications for regular staff persons who perform the functions or activity being provided. However, they must be under the supervision of a full-time staff member at all times.

3. Further, other students enrolled in high school who are ages fourteen (14) through seventeen (17) years of age may provide companionship services for the participants or may provide office or administrative services to the center, but they shall not be counted in the participant/staff ratio. No students under eighteen (18) years of age shall be in

positions of supervision of staff or other volunteers, and under no circumstances will they be left alone in an adult day care center without at least one staff member, eighteen (18) years of age or older, being present.

(5) **Persons Charged with or Convicted of Certain Criminal Activity.** No employee or volunteer or any other person who is currently charged with or who has been convicted of a crime involving the misuse of funds, fraud, physical abuse or assault of any degree, or any degree of homicide against any person, or the illegal use or possession or distribution of drugs or alcohol, shall work with or have access to the participants at the adult day care center.

(6) **Persons Determined to Have Abused, Neglected or Exploited an Adult.** No employee or volunteer or any other person shall work with, or have access to, the participants at the adult day care center who is the subject of a restraining order or other injunctive relief entered by any court of competent jurisdiction following an investigation by either the Department of Human Services, or by a state or local agency with similar responsibilities in any other jurisdiction, and a finding by such agency that the employee, volunteer or other person had abused, neglected or exploited an adult within the meaning of *TCA §§71-6-101 et seq.*, or a similar statute of such other jurisdiction.

Authority: *T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. Administrative History: Original rule filed December 14, 1999; effective February 27, 2000.*

1240-7-10.11 RELEASE OF INFORMATION.

The licensee and center staff must not disclose or knowingly permit the use of any information concerning a participant or the participant's family except as required by law or regulation, or with the permission of the participant's responsible party; provided, however, the director and any staff shall provide any information to law enforcement or adult protective service staff of the Department investigating any allegations of abuse, neglect or exploitation of any participant and shall allow access to all records of the center or the participant for the purpose of the investigations of such allegations or for purposes of conducting any licensing functions.

Authority: *T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. Administrative History: Original rule filed December 14, 1999; effective February 27, 2000.*

1240-7-10.12 MEDICATION ADMINISTRATION.

(1) The center must have a written policy which allows a participant to self-medicate or which allows staff to provide assistance to the participant for this purpose.

(2) Administration of Medication.

(a) Self-administration of medication permits staff assistance to participants for reading labels, opening bottles, reminding participants of their medication, checking the self-administered dose against the dosage shown on the prescription, observing the participant while taking medication, reassuring participants that they are taking the correct dosage and reporting any noticeable changes in the condition of a participant to a physician and to the responsible party.

(b) Under no circumstances shall an employee or volunteer administer prescribed and nonprescribed, internal and external medication to a participant unless the employee is licensed to do so.

(3) List of current prescriptions and non-prescription medicines being taken by a participant must be maintained by the center staff and medications or drugs which are to taken by the participant must be labeled with the participant's name, the name of the medication, dosage strength and frequency.

(4) The center shall maintain records of medications taken by the participant, including the date, dosage taken and time the medication was taken by the participant.

(5) All medication errors, drug reactions, or suspected over-medication must be reported to the physician who prescribed the drug and to the participant's responsible party.

(6) Discontinued and outdated drugs and containers with worn, illegible or missing labels must be returned to the responsible party or disposed of properly.

(7) An adult day care center located on the premises of and operated by a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged, or a licensed residential hospice shall be deemed to meet the requirements of this rule if, for its adult day care participants, it utilizes the same system for medication recordkeeping as is used for its other patients/clients/residents; provided, however, the records kept for the adult day care center participants must be placed in individual files separate from the files of the other patients/clients/residents of the

facility and shall include the information in 1240-7-10-.12(4).

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.13 TRANSPORTATION.

(1) The vehicle used either by the adult day care center, or the vehicle used under the sponsorship or control of the center, which is used for transportation of the participants, must be covered by vehicle liability insurance.

(2) Drivers of the vehicles used to transport participants must have a proper license and endorsement required for the transportation of the number of passengers transported and the vehicle size and weight as required in *Title 55, Chapter 50 of the Tennessee Code Annotated*. The adult day care center shall have this information available for purposes of review and documentation by the Department's staff.

(3) Vehicles used to transport participants shall be maintained in safe working condition.

(4) Management Responsibility, Required Verification of Adult's Transportation Status and Transportation Training Requirements.

(a) Management Responsibility.

1. If an adult day care center provides transportation, or if transportation is provided under its direction or control either by sponsorship or by contract with other transportation providers, the center's management shall be fully responsible for the transportation of adults between the adult's home (or place of dwelling) and the center; to and from other locations; and on field trips.

2. The adult day care center is responsible for developing a transportation plan which ensures the safety of participants. However, the procedures in subparagraph (b) will be required as minimal requirements to be included in this plan.

(b) Verification Procedures.

1. Immediately upon unloading the last participant from the vehicle and at the time the vehicle is parked and will be left unattended at the center, or on a field trip or some other location away from the center, the driver, or other staff person, shall ensure that all the participants being transported have been unloaded.

2. The driver, or other staff person shall physically walk through the vehicle to check all seats and all interior spaces of the vehicle. The time of the physical inspection shall be recorded and turned in to a staff member at the center each day.

(c) Vehicle Occupancy.

1. Participants may be left in the vehicle, for a brief period of time, while the driver assists a disabled or impaired participant to enter his home, enter a doctor's office, or other similar circumstance. However, the driver will only be away from the vehicle long enough to assist the participant to his destination and the driver will promptly return to the vehicle. Participants will not be left unattended in the vehicle over five (5) minutes. Also, during these times when the driver is outside the vehicle, for purposes of assisting another participant, or for official transportation related reasons, the driver will not be more than a distance of five hundred (500) feet away from the vehicle.

2. The driver will only leave the vehicle to assist participants, for emergency reasons, or for purposes related to the transportation and safety of the vehicle's occupants. The driver will not be permitted to leave the vehicle for personal reasons, such as carrying out personal errands, buying personal items, taking coffee breaks, or other matters which are not related to the transportation of participants.

(d) Staff training.

1. All staff responsible for transporting adults shall receive adequate training regarding the transportation rules contained in this Chapter, as well as any other agency procedures which are not in conflict with these rules, prior to first performing those duties.

2. All staff responsible for transportation shall receive such training no less than every six (6) months thereafter.

3. Completion of such training shall be documented in the staff's records.

(5) The participant shall not be on a vehicle operated by the center or under the center's direction or control or through contract provided transportation for more than one and one-half hours without the opportunity for a rest stop.

(6) All facility owned vehicles used to transport participants must have an operational fire extinguisher and first aid kit on the vehicle.

Authority: T.C.A. §§4-5-201 et seq.; 71-2-401 et seq. **Administrative History:** Original rule filed December 14, 1999; effective February 27, 2000.

1240-7-10-.14 SAFETY REQUIREMENTS.

(1) The adult day care center must have a written emergency plan and have a posted plan for evacuation of participants, staff, and visitors in case of fire or other emergencies such as storms, flooding, and chemical emergencies.

(2) Telephone numbers for the following must be posted:

(a) Ambulance service;

(b) Police department;

(c) Fire department;

(d) Poison control center; and

(e) The Tennessee Department of Human Services, Adult Protective Services.

(3) Fire Safety Requirements.

(a) Initial Approval. Unless otherwise governed by currently adopted regulations of the Tennessee Department of Health's regulations for health care facilities, all reviews for and approvals of state building and fire codes and for new and existing adult day care facilities will be conducted initially, prior to licensing, under the jurisdiction of the State Fire Marshal or a representative of the State Fire Prevention Division, and these reviews and approvals shall be completed pursuant to the requirements of *TCA §68-120-101*. The reviews and approvals for adult day care centers shall use the same standards as are utilized by the State Fire Marshal for providers of child care in child care centers licensed by the Department of Human Services. Each licensee shall comply at all times with the applicable fire safety and building codes as directed by local and state fire inspection officials.

(b) If a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged or a licensed residential hospice which operates or has an adult day care center on its premises provides evidence that the "adult day care center" area of the facility has been inspected and approved for fire safety standards by the Tennessee Department of Health's Division of Health Care Facilities, this evidence will satisfy the requirements of this paragraph. If such evidence is not provided, proof of an approved inspection by an appropriate fire inspection official must be received by the Department of Human Services. The director of the adult day care program will be responsible for providing proof of this inspection.

(c) All adult day care centers licensed by the Department must receive an approved fire safety inspection by an appropriate fire inspection official prior to re-licensing, or must receive annual approval as a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged or a licensed residential hospice by the Tennessee Department of Health's Division of Health Care Facilities. If evidence of approval by the Department of Health is not provided, proof of an approved fire safety inspection by an appropriate fire inspection official must be received by the Department of Human Services. The adult day care center director is responsible for supplying documentation of compliance.

(4) Environmental Safety Requirements.

(a) Initial Approval. Facilities that have been unlicensed, relocated, and/or renovated, as well as new construction, must be inspected and approved initially by an environmentalist from the Tennessee Department of Health. The major categories included in this inspection are: water supply; sewage disposal; plumbing; solid waste; toilets and bathing fixtures; floors, walls and ceilings; doors and windows; furniture and bedding; lighting, heating, and ventilation; insect and rodent control; (animal control where appropriate) and over-all building safety. Although portions of this inspection overlap with food service inspection and fire inspection, this is a separate inspection and shall not be considered as a substitute for those other inspections.

(b) If a licensed nursing home, a licensed hospital, a licensed assisted living facility, a licensed home for the aged or a licensed residential hospice which operates or has an adult day care center on its premises provides evidence that the “adult day care center” area of the facility has been inspected and approved for environmental standards by the Tennessee Department of Health’s Division of Health Care Facilities, this evidence will satisfy the requirements of this paragraph. If such evidence is not provided, proof of an approved inspection by an environmentalist of the local health department must be received by the Department of Human Services. The director of the adult day care program will be responsible for providing proof of this inspection.

(c) Annual Inspection. All facilities must be inspected and approved annually by an environmentalist of the Tennessee Department of Health or must receive annual approval as a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged or licensed residential hospice by the Tennessee Department of Health’s Division of Health Care Facilities. If such evidence is not provided, proof of an approved inspection by an environmentalist of the local health department must be received by the Department of Human Services. The adult day care center director is responsible for supplying documentation of compliance.

(5) If, during the course of an inspection of a licensed nursing home, a licensed hospital, a licensed assisted-care living facility, a licensed home for the aged or a licensed residential hospice by staff of the Tennessee Department of Health, any deficiencies are identified which relate to the facility’s adult day care program, the adult day care center director representing the facility will be responsible for ensuring that the Tennessee Department of Human Services is promptly notified of the deficiency.

(6) Staff are required to report cases of suspected abuse, neglect, and exploitation of an adult participant to the Tennessee Department of Human Services’ local office according to *Tennessee Code Annotated* §71-6-103. Failure to do so shall, by itself, constitute a basis for denial or revocation of the license.

Authority: *T.C.A. §§4-5-201 et seq.; 71-2-401 et seq.* **Administrative History:** *Original rule filed December 14, 1999; effective February 27, 2000.*

1240-7-10-.15 LICENSING VIOLATIONS/DUE PROCESS.

(1) Notice of Violation of Standards and Corrective Action.

(a) If the Department finds violations of these rules or the law governing its operation which may lead to denial of a renewal of a license or suspension or revocation of an existing adult day care center license, the Department shall give written notice of the violations by certified mail, return receipt requested to the licensee or other person(s) who may reasonably appear to be in charge of the operation of the adult day care center and may, in addition to mail notice, give other written and/or oral notice of such violations personally to the licensee or other person(s) who may reasonably appear to be in charge of the operation of the adult day care center.

(b) The notice shall give the factual basis for the rules violations and shall cite to the specific rules which are being violated.

(c) If, in the judgment of the Department, no emergency conditions exist, the Department shall describe what must be done by the center to effect compliance with the rules in this Chapter and any law governing the center's operations and shall give the licensee a reasonable opportunity to demonstrate compliance with all licensing rules and laws affecting the center's operations before initiating any adverse action.

(2) Probation and Procedures for Appeal of Probationary Status.

(a) Notice.

1. If the Department determines that an adult day care center is not in compliance with the regulations established by this Chapter or the law governing its operation, and after reasonable written notice and an opportunity to effect compliance as provided by paragraph (1), the Department may place the center on probation.

2. Prior to placing the center on probation, the Department shall provide written notice by personal delivery by a duly authorized representative of the Department, or by certified mail, return receipt requested, regarding the legal and factual basis for its proposed action and shall offer the center the opportunity to appeal the proposed action.

(b) The center may appeal the intended probation action in writing to the Commissioner within ten (10) days of receipt of the notice. If timely appealed, the Department will schedule an informal hearing concerning the proposed action. The hearing shall be held by the Commissioner or a designated hearing officer within thirty (30) days of the date the appeal request is received unless continued for good cause shown or unless an extension is agreed to by the licensee in writing. The Commissioner or designated hearing officer shall make a decision within ten (10) days of the hearing. The decision of the Commissioner or designated hearing officer shall be final for this initial probationary status.

(c) If a center is placed on probation by the Department, the center shall post a copy of this notice in a conspicuous place, as directed by the Department. The center shall notify the responsible parties for each of the adults in its care in writing regarding the center's status and the basis for the probation.

(d) If the center corrects the violation after being placed on probation, the Department shall immediately remove the probationary status and the center will not be further required to post any notice of the probation and may notify relatives and other responsible parties of the adults in its care of the termination of the probation status.

(e) If the Department determines that a violation remains uncorrected after the center has been placed on probationary status and the center has had the opportunity to appeal the initial placement on probation, the Department shall notify the center of its determination as provided in paragraph (1)(a) above. The center may appeal this determination to the Commissioner within the time periods provided in paragraph (2)(b), above. The hearing shall be held by the Commissioner or designated hearing officer within thirty (30) days of the date the appeal request is received unless continued for good cause shown or unless an extension is agreed to by the licensee in writing. The Commissioner or designated hearing officer shall make a decision within ten (10) days of the hearing. If the decision upon appeal is that the center should remain on probation, the center may then file a petition for judicial review of the decision of the Commissioner or designated hearing officer, as provided pursuant to *TCA §4-5-322*, in the chancery court of the county where the center is located.

(f) The Department shall maintain records of the hearings under subparagraphs (b) and

(e) above, which shall become the record for the judicial review of the administrative decision regarding probation.

(g) The decision to place a center on probation shall be discretionary with the Department and shall not be a prerequisite to any licensing action to summarily suspend, to revoke or to deny any license.

(3) Denial of an Application for a License and Appeal.

(a) Appeal Procedure.

1. The applicant for a provisional license, or for renewal of a license, which has been denied for failure to meet the regulations in this Chapter and the law governing its operation, shall be immediately notified by the Department in writing by certified mail, return receipt requested. The notice of denial shall include the factual and legal basis for the denial.

2. The applicant seeking to appeal the Department's action must submit a written request for a hearing to the Commissioner within ten (10) days of the mailing date of the notice.

3. Upon timely receipt of the request by the Commissioner, a hearing shall be set by the Department within sixty (60) days of receipt of the request. The hearing on the appeal shall be conducted pursuant to the provisions of the Uniform Administrative Procedures Act, *TCA §§4-5-301 et seq.* If a timely request for a hearing is made, the existing license, if any, shall continue in effect, unless suspended or revoked, until the resolution of the administrative appeal.

(4) Revocation of a License and Appeal.

(a) If, during the term of any license, the Department determines that the license should be revoked because of a failure to correct any noted violation of the regulations established by this Chapter or the law governing the center's operation, the Department shall immediately notify the licensee in writing, by certified mail, return receipt requested, of the legal and factual basis for these violations and of the Department's intent to revoke the license within sixty (60) days.

(b) Appeal Procedure.

1. The licensee must submit a written request for a hearing to the Commissioner within ten (10) days of the mailing date of the notice.

2. Upon timely receipt by the Commissioner of the request, a hearing shall be set by the Department within sixty (60) days of receipt of the request. The hearing on the appeal shall be conducted pursuant to the provisions of the Uniform Administrative Procedures Act, *TCA §§4-5-301 et seq.* If a timely request for an appeal is made, the existing license shall continue in effect, unless suspended, until the resolution of the administrative appeal.

(5) Summary Suspension of a License and Appeal.

(a) A license may be summarily suspended by the Department pursuant to the provisions of *TCA § 4-5-320* if the Commissioner, or the Commissioner's designee, finds that the public health, safety or welfare imperatively requires emergency action, and incorporates such finding in the summary suspension order. The order shall be effective upon receipt by the licensee or the person having responsibility or reasonably believed to have responsibility over the operations of the adult day care center, and the center shall cease operations immediately, or as otherwise directed by the order. The

summary suspension order may be personally delivered immediately by a duly authorized representative of the Department and shall also be sent by certified mail, return receipt requested.

(b) The order shall notify the licensee of the legal and factual basis for the summary suspension and what action is necessary to immediately effect compliance with the regulations and shall notify the licensee of the time, date and place of the hearing in subparagraph (c) to contest the summary suspension order and of the right to be represented by legal counsel at the licensee's expense.

(c) The order shall be reviewed within five (5) business days of the suspension order, excluding Saturdays, Sundays and legal holidays, by a hearing officer appointed by the Commissioner. The hearing and entering of the order shall proceed as follows:

1. The hearing shall be informal and shall not be conducted pursuant to the contested case proceedings under *Title 4, Chapter 5, Part 3 of the Tennessee Code Annotated*. It shall be conducted by a hearing officer from the Department's Administrative Procedures Division who shall not have had any involvement in the decision to suspend the license. The sole issue before the hearing officer shall be whether the public safety, health or welfare imperatively require emergency action by the Department due to the failure of the center to comply with any law or regulation relating to the center's operations.

2. The Department shall be required to present evidence to the hearing officer which supports the basis for the summary suspension order and its continuance. The licensee shall then have an opportunity for response.

3. The hearing officer shall make a written determination of whether probable cause exists for continuance of the suspension order based upon the standard set forth in Part 1.4. The order containing the hearing officer's findings and ruling shall be entered within five (5) business days of the date of the hearing and shall be served upon the licensee and upon legal counsel for the licensee by certified mail, return receipt requested or by personal delivery, and by mail or personal delivery upon the Department's adult day care licensing staff and legal counsel for the Department. If the summary suspension order is upheld on review, the licensee shall no longer be eligible for any payments from the Child and Adult Care Food Program (CACFP) unless the suspension or any resulting revocation or denial of the license is subsequently overruled by the Department upon administrative review or by other order of the Commissioner, or by a reviewing court.

(d) No period for compliance following a suspension order shall exceed thirty (30) days without lifting the suspension or without written notice by the Department of intent to revoke or deny the license, except with the written consent of the licensee.

(e) Notice of Denial and Revocation Following Suspension.

1. If compliance is not effected within the thirty (30) day period from the entry of the suspension order, or unless the suspension is lifted, or unless the licensee has agreed to an extension of the suspension order in writing, the Department shall, for purposes of subparagraph (d) give written notice, as required by paragraph (3)(a), of its intent to deny the licensee's pending application for renewal of the license, or shall give notice to the licensee, as required in paragraph (4)(a), of its intent to revoke the license. Notice shall be sent by certified mail, return receipt requested and, for purposes of this subparagraph and subparagraph (d), is effective upon the mailing date of the notice.

2. The licensee may appeal such revocation or denial as stated in paragraphs (3) and (4), and the summary suspension order shall remain in effect unless lifted or modified by the procedures under subparagraph (c). If less than sixty (60) days remain before the expiration of the license at the time of the suspension, and compliance is not effected as required by the Department, the Department may revoke the license as provided above upon sixty (60) days written notice to the licensee, and all provisions of the rules relating to revocation of licenses shall apply.

(6) Unless the license has been or is suspended as provided in paragraph (5), the existing license shall remain in effect during the proceedings to revoke or deny the license until the last day to seek appeal of the Department's decision or, if appealed, until the final order of the Department, or until a later date fixed by a reviewing court. Provided, however, the Department shall continue to have the right of inspection of the adult day care center during the pendency of the administrative hearing or the reviewing Court's proceedings, and may bring new or additional violations for consideration by the hearing official by amendment of its original notice which shall be filed with the hearing official and sent to the licensee by certified mail, return receipt requested.

(7) The hearing regarding a denial or revocation of the license may, by order of the hearing official, be continued up to a period of six (6) months, and permit the licensee to continue operations under whatever conditions are appropriate, if the hearing official determines, and makes such finding in the order, that such continuance is necessary to further determine the licensee's ability or willingness to adhere to these regulations. No continuances shall be permitted, for this purpose, for more than six (6) months. The hearing official may receive further evidence concerning the licensee's compliance with the regulations. The hearing official shall then only determine whether the denial or revocation should be sustained on the previously charged violations or any new violations found by the Department of which the licensee has received written notice since the previous notice of denial or revocation.

(8) When, except for the provisions for its continuation pursuant to paragraphs (6) or (7), a license would have expired during the proceeding before the hearing official or the reviewing court, and when the Department's final order or the reviewing court does not ultimately sustain the Department's denial or revocation of the license, the licensee

must apply for a new license within ten (10) calendar days of the date of the Department' final order or the reviewing court's order. If a new, timely application is made, the previously issued license shall remain in effect, unless suspended, until a determination of the application by the Department and until any timely appeal of such determination is taken as described above.

(9) No license shall remain in effect following a final order of the Department upholding the Department's action regarding the suspension, denial or revocation of a license unless a stay is entered by the Department or by the reviewing court.

(10) A licensee may not reapply for a license for a period of sixty (60) days following a denial, suspension, or revocation of a license which has not been appealed, or for the same period following entry of a final order of the Department or a final order of a reviewing court if the action of the Department has been sustained.

Authority: T.C.A. §§4-5-201 et seq.; 4-5-301 et seq.; 4-5-320; and 71-2-401 et seq.

Administrative History: Original rule filed December 14, 1999; effective February 27, 2000.

PERFORMANCE STANDARDS
FOR
HOMEMAKER SERVICES

PERFORMANCE STANDARDS FOR HOMEMAKER SERVICES

I. Definition

Supportive services provided by qualified para-professionals employed as homemakers, supervised by professional staff, directed to providing: protective supervision to adults; teaching homemaker skills; provision of household management; essential shopping; household tasks; provision of personal care; and/or provision of temporary care to help the adult return to or remain in his/her own home. Case management by professional staff may be included as a component of this service.

II. Goals of Homemaker Services

Each SSBG service must be directed to achieving one or more of the national goals, as defined for the State's Social Services Program. State funded homemaker services, also, must be directed toward one of these same goals. Homemaker Services must be directed toward achieving at least one of the following goals:

- Goal 2 - Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;
- Goal 3 - Preventing or remedying neglect, abuse or exploitation of adults unable to protect their own interest.
- Goal 4 - Preventing or reducing inappropriate institutional care by providing for community-based care, home-base care, or other forms of less intensive care.

III. Purposes of Performance Standards

The following Performance Standards are designed to help agencies which provide homemaker services organize and deliver a well-defined service. In addition, these Performance Standards assist agencies in implementing a professional program which is amenable to evaluation. Performance Standards also make it possible to monitor and evaluate both the service and the delivery process used.

These Performance Standards do not preclude agency compliance with the Rules of the Department of Mental Health and Developmental Disabilities, Office of Licensure. A copy of Chapter 0940-5-38, Minimum Program Requirements for Personal Support Service Agencies may be found attached as an Addendum.

IV. Service Delivery Process

A. Eligibility Process

Effective July 1, 2006, SSBG Homemaker Contractors may only accept Adult Protective Service, or Without Regard to Income clients referred by the Department of Human Services. If an agency feels the referral is not appropriate for their program, they must have written DHS approval to decline the referral. The Department has responsibility for establishing the need for homemaker services through the APS section. In cases that were active for homemaker service prior to July 1, 2006, the agency continues to have responsibility for determining eligibility for those cases until the client no longer needs the service and the case is closed. SSBG eligibility policy should be followed in these cases.

When the Department's adult protective services staff determine that the only service needed is homemaker services, the protective service case will be closed, and the agency will be asked to continue services. The service will continue to be classified in the Without Regard to Income category. The agency must reestablish need, prepare an updated social assessment and service plan at six months intervals after the Department closes its case. Closed adult protective service cases will continue to be served in the WRI category as long as the need exists.

1. Need for Service

Need is established when an individual or family is experiencing a specific personal or social problem for which homemaker services is deemed to be the appropriate service. The Department of Human Services APS worker will determine need for service when they make the homemaker referral. With the possible exception of protective service situations, an individual or family should be motivated to obtain help.

Need for services for adults may be determined in the following instances:

- a) An adult or couple lives alone and is unable because of temporary illness or infirmity to manage some of the household tasks.
- b) An adult is in a hospital; nursing or boarding home and can return to his/her home if some household tasks are done for him/her.
- c) An ill or infirm adult is in need of other living arrangements and placement cannot be made immediately.

- d) An ill or infirm adult is not receiving proper care or is living in hazardous circumstances.
- e) An ill or infirm adult may be precipitating family breakdown because of his/her condition.

2. Financial Eligibility

Financial Eligibility is established when the individual or family's income is within the SSBG guidelines. (Eligibility for State-funded homemaker services is established by applying the SSBG guidelines).

Financial eligibility for services may be determined in the following instances:

- a) Recipients of AFDC or SSI are automatically eligible for the service if they need it;
- b) Individuals in need of the service because of protective service reasons are eligible without regard to their financial circumstances, (effective July 1, 2006 all new referrals fall into this category); and
- c) Individuals whose gross income is within the income standards defined by the Department of Human Services homemaker program are eligible for service if they need it.

B. Designation of Primary Client(s)

The primary client is the individual who benefits directly from the provision of service. One or more primary clients may be designated in a family. The activities performed on behalf of a primary client may involve collateral contacts with family members and relatives and various community resource. These contacts are activities performed on behalf of these individuals as part of the service plan. Persons contacted for this purpose would not be classified as receiving homemaker services. In active adult protective services cases, the designations must be made by the Department's caseworker.

C. Social Assessment, Reassessment and Service Plan

The Department's caseworker completes the assessment, reassessment, and service plan. An exception is in adult protective service cases which have been closed by the Department. Section IV.A. page 2, discusses the homemaker agency's responsibility for completing assessments and service plans for individuals who no longer have active adult protective services cases in the Department. The assessment and service plan may need to be adjusted/revised during the six month interval. This can be done at any appropriate point. Changes or revisions to the assessment and service plan must be documented in the individual's record.

1. Social Assessment and Reassessment

An appropriate social assessment based upon the individual and his/her home situation must be completed every six months. The assessment will describe the individual's level of physical and mental functioning, family relationships and interactions, socio-economic status, etc. The assessment must be based on at least one home visit and be completed within thirty days of service initiation. This assessment must be completed by the professional person. When the provision of service exceeds six months, an updated social assessment must be completed. The reassessment must be based on a home visit which re-evaluates the individual's current level of functioning. It must evaluate whether the homemaker service has assisted the individual and whether it supports/justifies the continued need for services. A portion of this evaluation should include documentation of the person's feelings about the continuing service need and the benefits which have been derived from the homemaker services.

2. Service Plan

A service plan, consisting of one or more explicitly stated objectives directed toward each identified goal and defined with or in behalf of the individual, must be developed by the professional person and included in the case record. Activities planned for achieving these objectives to be implemented by the agency, individual, or by others in his/her behalf, also, should be defined and recorded. When the duration of the service exceeds six months, a new service plan must be developed and included in the case record.

D. Service Delivery

Homemaker services involve a series of personal contacts in the home by a qualified para-professional who is employed as a homemaker and is acting under the supervision and guidance of a professional staff person. Activities and contacts by the homemaker are to be with or on behalf of the individual or his/her caregiver.

These activities and contacts must be in accordance with the service plan which has been established. The frequency of contacts is determined by the service plan. Contacts should be scheduled often enough to establish and maintain the kind of relationship which is essential to effective service delivery. Once a month visits cannot be considered to be a professional homemaker service.

EXCEPTION: Less frequent visits may be appropriate when the service is being terminated or a client is being maintained at a level of functioning already achieved.

Services to Adults

Homemaker services may be provided to elderly and/or handicapped adults who are experiencing problems in remaining in their own home and who have been designated as protective services eligible (WRI) by Department staff. In adult cases, services often focus on activities which the individual can no longer perform for himself/herself and which are necessary for him/her to remain in the home. It may be unrealistic to expect major improvement in some individuals' functioning levels, and emphasis may need to be placed on maintaining their current level of independence. There are some elderly and/or handicapped adults who benefit from the teaching, supervision and skills development as the focus of homemaker services. In addition to helping the individual remain in his/her home, the homemaker is in a position to give emotional support and encouragement during periods of loneliness and depression.

Homemaker services to adults may include, but are not limited to the following:

- a) assistance with personal care, such as bathing, toileting, eating, dressing, grooming, and walking; (*)
- b) help with simple health care routines, such as reminders to maintain diet restrictions and reminders to do recommended exercises;
- c) performance of routine household chores, such as sweeping, mopping, dusting, making beds, washing dishes, etc.;
- d) performance of washing, ironing, mending and caring for clothing;
- e) assistance in obtaining appropriate medical care;
- f) performance of essential shopping and errands with or for the individual (for example, grocery shopping, having prescriptions filled, paying bills);
- g) preparation of and/or providing education about the preparation of nutritious appetizing meals;

- h) provision of consumer education and assistance with household budgeting;
- i) giving assistance and instruction to individuals or caregivers in taking or giving medications;
- j) provision of assistance in the selection and purchase of items needed to make the home adequate for the individual;
- k) assisting the individual or caregiver in establishing or improving a home;
- l) assisting the individual or caregiver in learning to use community resources;
- m) teaching good grooming and healthy living habits;
- n) provision of temporary supervision of an individual in his/her own home in the absence of the caregiver in an emergency situation, such as illness of the caregiver or temporary absence of the caregiver; and
- o) conferring with Department staff.

(*) assisting the individual in and out of the tub or shower, and helping the individual in and out of bed and/or wheelchair, are activities that may be performed by a homemaker who has specialized training.

The provision of transportation of individuals, or transportation provided on behalf of these individuals, in the course of carrying out the above activities is allowable. However, provision of transportation is not allowable if this is the only activity performed.

Many activities for which the elderly and disabled may need assistance are subject to advanced training and/or licensing requirements. The following actions, and possibly others not listed, require the person administering them to be licensed or certified, and therefore,

Homemakers should not perform the following:

- a) changing dressings;
- b) giving medications, including insulin shots;
- c) physical therapy;
- d) giving enemas or irrigating catheters;
- e) speech therapy; or

- f) positioning the individual in bed for the prevention of contractures.
Program staff should determine if other actions which the Homemaker may be called upon to perform require specific license or certification. Homemakers, and the agencies who employ them, may be subject to liability for actions for which result in injury to the client.

E. Service Delivery Documentation

Case records must document all activities, including all collateral contacts, performed with or on behalf of the individual. Documentation must be sufficient to establish that services are being provided in accordance with the service plan, and activities are consistent with the definition of homemaker services. Regardless of the format the agency chooses to use in documenting services, the record must be adequate to substantiate the number of units being claimed for reimbursement. At a minimum, records must include:

- eligibility documents;
- assessments/ reassessments and service plans; and homemaker's summaries of activities performed. (Dates of visits should be recorded in the Summary or on the day sheets).

F. Unit of Service

The unit of service shall be defined as an hour of direct contact. Each homemaker or full-time equivalent homemaker is expected to provide thirty hours of direct service per week.

Activities considered a part of direct contacts are:

A. Individual contacts;

B. Collateral contact on the individual's behalf;

C. Transportation:

- to and from individual's place of personal residence
- for performance of essential shopping and errands (see D. f. page 5)
- to transport individual to medical resources
- to transport individual for purpose of teaching good shopping practices

D. Supervisory conferences regarding specific case situations.

VI. Unit Cost Determination

The unit cost is computed based on the budget divided by number of full-time equivalent homemakers times thirty hours a week times forty-five weeks per year.

VII. Qualifications of Homemaker Service Staff

Minimum Qualifications of Homemakers - Ability to follow oral and written interactions and keep simple records. Experience with home management, care of disabled, ill or convalescent, or elderly individuals which would indicate the abilities to perform the duties of this position.

- Desirable Qualifications of Homemakers - High School graduation or GED. Completion of a generic training program to prepare the homemaker for the tasks and responsibilities of this service.
- Minimum Qualifications of Professional Staff (Example: supervisor or caseworker) - graduation from an accredited four-year college or university including or supplemented by twenty-one quarter hours in behavioral sciences, i.e., social work, psychology, sociology, and/or home economics (graduation from an accredited school of nursing and licensed to practice in Tennessee as a registered nurse may be considered an acceptable substitute).

VIII. Training

A. Initial Generic Training

Each homemaker must be provided a minimum of 40 hours of basic orientation and training or have completed an equivalent training program. Such training is vital to an effective and safe homemaker program. Appropriate training areas include agency policy and regulations, mental illness, physical handicaps, disabilities due to chronic or acute illness, or advanced age or protective services.

B. In-Service Training

Ongoing in-service training is required for all para-professional homemaker staff. A specific training plan, outlining the content to be covered, must be developed by the agency. A minimum of 25 hours of such training must be provided per year, in addition to normal supervisory guidance and training. If possible, the training should be spread across the four quarters of the year. Training hours should be documented for each employee.

**TENNESSEE DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL
DISABILITIES
OFFICE OF LICENSURE**

0940-5

0940-5-1 Definitions

0940-5-3 Application of rules for distinct services category

0940-5-36 Minimum program requirements for personal support services agencies

**Chapter 0940-5-1
Definitions**

AMENDMENT

0940-5-1 The definitions chapter is amended by adding a new section .08. The new section shall read:

Definitions for the distinct category of personal support services agencies

- (1) "Agency" means a sole proprietorship, partnership, corporation, limited liability company or limited liability partnership providing personal support services as defined below. Agency includes all entities that employ or subcontract with individuals who provide personal support services to service recipients.
- (2) "Chronic condition" means a mental and/or physical impairment that is expected to last indefinitely.
- (3) "Service recipient" means an individual who, because of a chronic condition, has substantial limitations in two or more major life activities, and who is receiving services in either a regular or temporary residence.
- (4) "Education services" means consultation provided by a licensed nurse to the service recipient or primary family caregiver concerning a chronic condition.
- (5) "Personal support services" means one or more of the following services provided to a service recipient in the individual's regular or temporary residence to assist with activities of daily living. Personal support services include but are not limited to:
 - (a) Self-care assistance with tasks such as eating, dressing, toileting, bathing, mobility, transfer assistance and other services and supports to maintain health and wellness;
 - (b) Household assistance with tasks such as housekeeping, laundry, meal planning, meal preparation, shopping, bill paying, and use of telecommunication devices;
 - (c) Personal assistance to access community activities such as transportation, social, recreational or other personal activities; and
 - (d) Education services.

- (6) “Major life activities means” (a) self-care; (b) receptive and expressive language; (a) learning; (d) mobility; (e) self-direction; (f) capacity for independent living; or (g) economic self-sufficiency.

Chapter 0940-5-3

APPLICATION OF RULES FOR DISTINCT FACILITY CATEGORIES

AMENDMENT

Rule 0940-5-3 Application of rules for distinct facility categories is amended by adding a new paragraph (26) to the rule so that the rule, where amended shall read:

0940-5-3-.26 Application of Rules For Personal Support Services Agencies

The licensee providing personal support services must comply with and provide services that comply with the following rules:

- (b) Chapter 0940-5-6 Minimum program requirements for all facilities;
- (c) Chapter 0940-5-36 Minimum program requirements for personal support services agencies; and
- (d) Regardless of whether a licensee is a sole proprietorship, partnership, corporation, limited liability company or limited liability partnership, it must meet all requirements of chapters 0940-5-6, and 0940-5-36.

Chapter 0940-5-36 MINIMUM PROGRAM REQUIREMENTS FOR PERSONAL SUPPORT SERVICES AGENCIES

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0940-5-36-.01 Scope.

These rules apply to all agencies providing one or more personal support services in the regular or temporary residence of service recipients who have substantial limitations in two or more major life activities. The following are exempt from licensure under this chapter:

- (a) A person who provides personal support services to only one individual;
- (b) A person who provides personal support services only to members of the individual's own family;
- (c) A person who provides only household cleaning services to a service recipient;
- (d) A person who provides services in homeless shelters;
- (e) A person who provides only delivery services, such as dry-cleaning, food, medication delivery, or medical equipment; and
- (f) Home care organizations licensed under Tennessee Code Annotated, Title 68, Chapter 11, Part 2 as a home care organization, which provides personal support services.

0940-5-36-.02 Policies and procedures.

The licensee must maintain written policies and procedures that include the following:

- (a) Requirement that each employee or contract worker be screened for tuberculosis according to procedures of the Tennessee Department of Health or receive a tuberculosis skin test or chest x-ray before working directly with service recipients. Documentation must be maintained in employee personnel file;
- (b) The plans and procedures to be followed in the event of fire evacuation and natural disaster emergencies;
- (c) Receipt and disbursement of money on behalf of service recipients;
- (d) Backup plan for staffing ; and
- (e) Consultation for any service.

0940-5-36-.03 Personnel Requirements.

The licensee must:

- (a) Ensure that individuals who provide personal support services practice infection control procedures and universal precautions that will protect the service recipient from infectious diseases.
- (b) Have proof of bond coverage for the agency and others who provide personal support services.
- (c) Have worker's compensation insurance or waiver.
- (d) Perform criminal background checks on each individual who provides personal support services within ten (10) days of employment.
- (e) Check the Tennessee Abuse Registry for entry of any individual before he or she provides personal support service to a service recipient.
- (f) Ensure that individuals providing personal support services demonstrate the following prior to providing personal support services to service recipients:
 - 1. Have language skills sufficient to read and understand instructions, prepare and maintain written reports and records;
 - 2. Have language skills sufficient to communicate with the service recipient; and
 - 3. Have documented training specific to meeting individual service recipient needs in the areas of self care, household management and community living, and methodologies for service delivery.
- (g) Ensure that individuals providing personal support services have access to consultation for any service provided under this chapter;
- (h) Evaluate, at least annually, the ability of individuals providing personal support services to provide daily supports to service recipients; and
- (i) Provide at least quarterly monitoring and documentation of the quality of services provided.

0940-5-36-.04 Standardized Training and Continuing Education Requirements.

The licensee must ensure that:

- (a) Individuals who provide personal support services demonstrate basic competency in the following skill/knowledge areas within the first 30 days of employment/contract:
 - 1. Observing, reporting and documenting changes in service recipient's daily living skills;
 - 2. Abuse and neglect detection, reporting and prevention;
 - 3. Service recipient rights;
 - 4. Universal health precautions, including infection control;
 - 5. How to assist service recipients with personal hygiene;
 - 6. Service recipient safety; and
 - 7. Emergencies and disaster procedures.
- (b) Individuals who provide personal support services receive training on job related topics at least annually.

0940-5-36-.05 Service Recipient Record Requirements.

The licensee must ensure that each service recipient's record includes the following information:

- (a) An assessment of the need for a specific personal support service to be provided;
- (b) A written service plan based on a needs assessment which indicates, type, frequency, duration, and amount of services to be provided;
- (c) Consent for services by the service recipient or conservator, parent, guardian or legal custodian, attorney-in-fact under a durable power of attorney (DPOA) for health care;
- (d) Address and methods to reach the service recipient's conservator, parent, guardian or legal custodian, surrogate decision maker under T.C.A. §§33-3-219 and 3-220, or attorney-in-fact under a durable power of attorney (DPOA) for health care;
- (e) Documentation of party responsible for payment of services;
- (f) A record of services actually delivered with confirmation by the service recipient or legally responsible party;
- (g) Documentation of medical problems, illnesses and treatments, accidents, seizures, adverse incidents and follow-up, while the service recipient receives services; and
- (h) A written plan and procedure to be followed in the event of an emergency involving care of the service recipient which will provide for emergency transportation, emergency medical care and staff coverage in such events;
- (i) Documentation of all funds received and disbursed on behalf of the service recipient.